

ARTICLE ENTRIES ALPHABETIZED BY AUTHOR LAST NAME

Kenneth S. Abraham, *The Liability Insurer's Duty to Settle Uncertain and Mixed Claims*, 68 RUTGERS L. REV. 337 (2015).

The author compares and contrasts the insurer's duty to settle in conventional insurance claims and uncertain or mixed claims. In conventional claims, insurance coverage is clear, where in uncertain claims it is not. The author argues that the duty to settle should be reformulated in order to insure against the risk of incurring covered judgments.

{53} COLLABORATIVE LAW—GENERAL
{91} SUBJ MATTER: INSURANCE
{121} SETTLEMENT: AUTHORITY

Jawad Ahmad, *Review of the UNCITRAL Arbitration Rules—A Commentary (Second Edition)* by David D. Caron and Lee M. Caplan, 33 BERKELEY J. INT'L L. 294 (2015).

This is a review of UNCITRAL Arbitration Rules—A Commentary (Second Edition) by David D. Caron and Lee M. Caplan. The author discusses and analyzes the United Nations Commission of International Trade law (UNCITRAL) Arbitration Rules.

{44} ARBITRATION—GENERAL
{92} SUBJ MATTER: INT'L

Michal Alberstein, *Judicial Conflict Resolution (JCR): A New Jurisprudence for an Emerging Judicial Practice*, 16 CARDOZO J. CONFLICT RESOL. 879 (2015).

This article suggests that judges often serve as the impetus to settlement in cases that pass through the court system. Judges serve as parties to the negotiation, mediators, arbitrators, and problem solvers in both criminal and civil cases that do not reach litigation. The author analyzes the judicial role in conflict resolution as a mainstream judicial activity rather than as an experimental activity.

{60} ADR—GENERAL
{73} SUBJ MATTER: GENERAL
{151} ROLE OF LAWYERS

Claudia H. Allen, *Bylaws Mandating Arbitration of Stockholder Disputes?*, 39 DEL. J. CORP. L. 751 (2015).

This article examines the legal and policy issues raised by arbitration bylaws and whether adopting such bylaws would be attractive to public companies, likely reactions from stockholders, and opportunities for private ordering. Since arbitration is a creature of contract, the author argues that there are opportunities for corporations to craft bylaws that take into account company-specific issues, while responding to many likely criticisms.

{44} ARBITRATION—GENERAL
{81} SUBJ MATTER: CORPORATE
{106} SUBJ MATTER: SECURITIES

Lucy M. Anderson, *Mandatory Arbitration Within Cruise Ship Employment Agreements: Without Global Change, the Disparity of Power Continues to Expand*, 12 LOY. MAR. L.J. 335 (2015).

This article examines cruise ship worker Seafarer Employment Agreements that contain arbitration provisions requiring all legal claims brought against an employer to be arbitrated instead of adjudicated. Such arbitration clauses are binding and not subject to appeal. It examines how these agreements relate to the Federal Arbitration Act and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
{96} SUBJ MATTER: EMPLOYMENT (NON-UNION)
{97} SUBJ MATTER: MARITIME
{102} SUBJ MATTER: PUBLIC POLICY
{126} REQUIREMENTS: CONTRACTUAL CLAUSES
{128} REQUIREMENTS: STATUTORY OR RULES

Mathew Andrews, *Whistling in Silence: The Implications of Arbitration on Qui Tam Claims Under the False Claims Act*, 15 PEPP. DISP. RESOL. L.J. 203 (2015).

This article argues that while the courts erred by compelling arbitration of state law qui tam actions, their holdings were legally correct based on Supreme Court case law and a legislative loophole in the Dodd-Frank Amendments of 2010. It argues that arbitration could fundamentally alter the way whistleblower actions are investigated and prosecuted, which may blunt what

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has been described as the "government's primary litigation tool for recovering losses sustained as the result of fraud."

{44} ARBITRATION—GENERAL
{76} SUBJ MATTER: CIVIL RIGHTS
{87} SUBJ MATTER: GOV'T
{113} COURT REFORMS

Ralph Anzivino, *Vacating Awards Under the Wisconsin Arbitration Act and the Federal Arbitration Act*, 98 MARQ. L. REV. 1633 (2015).

This article examines the different ways to have an arbitrator's decision appealed and/or vacated in Wisconsin. It focuses on identifying and explaining five primary ways to seek relief from an arbitrator's award.

{44} ARBITRATION—GENERAL
{73} SUBJ MATTER: GENERAL
{146} ORGANIZATION POLICIES & RULES

Garrick Apollon, *The Intersection Between Legal Risk Management and Dispute Resolution in the Commercial Context*, 15 PEPP. DISP. RESOL. L.J. 267 (2015).

This article argues that alternative dispute resolution techniques should be utilized in legal risk communication: first, to avoid miscommunications and disputes between lawyers and clients by favoring open communication and consultation; and second, to improve the overall management of legal threats that the client is facing.

{60} ADR—GENERAL
{75} SUBJ MATTER: COMMERCIAL

Bill Atkin, *Controversial Changes to the Family Justice System in New Zealand: Is the Private Law/Public Law Division Still Useful?*, INT'L. J. L. POL'Y FAMILY 29 (2): 183 (2015).

This article discusses the changes in the Family Justice System in New Zealand and discusses how both the private system and the public law system help to provide parties with the freedom of self-determination to resolve their disputes.

{21} MEDIATION—GENERAL

{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

Lauren Guth Barnes, *How Mandatory Arbitration Agreements and Class Action Waivers Undermine Consumer Rights and Why We Need Congress to Act*, 9 HARV. L. & POL'Y REV. 329 (2015).

This article takes the position that mandatory arbitration clauses deny plaintiffs their day in court. It does so by analyzing arbitration clauses in the context of class action lawsuits. Mandatory arbitration clauses and class action bans strip from consumers many of the benefits and protections of the jury system and the ability to effectively hold wrongdoers accountable.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL

{73} SUBJ MATTER: GENERAL

{126} REQUIREMENTS: CONTRACTUAL CLAUSES

Rishi Raj Batra, *Judicial Participation in Plea Bargaining: A Dispute Resolution Perspective*, 76 OHIO ST. L.J. 565 (2015).

This article argues that there is a general perception that judges should not participate in plea bargaining discussions. However, despite this perception judicial participation in plea bargaining negotiation is permitted in most states. This article examines and analyzes the costs and benefits of judicial involvement in plea bargaining.

{53} COLLABORATIVE LAW—GENERAL

{82} SUBJ MATTER: CRIMINAL

{144} LEGISLATION

Roy F. Baumeister, W. Scott Simpson, Stephen J. Ware & Daniel S. Weber, *The Glucose Model of Mediation: Physiological Bases of Willpower as Important Explanations for Common Mediation Behavior*, 15 PEPP. DISP. RESOL. L.J. 377 (2015).

This article examines the process of mediation from a physiological standpoint, and how the behavior that often arises in a mediation is explained by the physiology of willpower. The author also emphasizes that the importance of the Glucose Model of Mediation to ethical issues that relate to the loss of willpower over the course of a mediation.

{21} MEDIATION—GENERAL

{105} SUBJ MATTER: SCIENCE & TECHNOLOGY

{138} ETHICS: GENERAL

Alexander Sevan Bedrosyan, *The Limitations of Tradition: How Modern Choice of Law Doctrine Can Help Courts Resolve Conflicts within the New York Convention and the Federal Arbitration Act*, 164 U. PA. L. REV. 207 (2015).

This article discusses the problems that the New York Convention has had in enforcing arbitration awards in jurisdictions other than the seat where the arbitration was held. The author calls for a modern approach to the choice of law problem that will solve the award enforcement problem.

{44} ARBITRATION—GENERAL

{60} ADR—GENERAL

{122} SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Christina L. Beharry & Melinda E. Kuritzky, *Going Green: Managing The Environment Through International Investment Arbitration*, 30 AM. U. INT'L L. REV. 383 (2015).

This article discusses investment arbitration and its benefits to foreign investors to air their grievances concerning governmental conduct that ostensibly contravenes a treaty obligation. Narrowing the issue to environmental-related disputes and the competing obligations of the State, this article addresses to what extent investor-state arbitration is equipped to deal with environment-related disputes.

{44} ARBITRATION—GENERAL

{84} SUBJ MATTER: ENVIRONMENT

Daniel Behn, *Legitimacy, Evolution, and Growth in Investment Treaty Arbitration: Empirically Evaluating the State-of-the-Art*, 46 GEO. J. INT'L L. 363 (2015).

This article examines the legitimacy debates regarding investment treaty arbitration, and also the idea that investment treaty arbitration will be cured of its legitimacy deficits as it evolves. The author then tests this evolutionary thesis by empirically analyzing investment treaty arbitration cases that have been resolved in the last three years.

{44} ARBITRATION—GENERAL

{92} SUBJ MATTER: INT'L

Tiffany Bostinelos, *A Happier Ending for Everyone: Resolving Adoption Disputes Between Putative Fathers and Adoptive Parents Through Clinical Mediation*, 15 PEPP. DISP. RESOL. L.J. 415 (2015).

This article discusses the problems that fathers face when their children are put up for adoption without their consent or knowledge, and their avenues for recourse against the adoptive parents. The author suggests that the best way to resolve these disputes is through clinical mediation. But, it also argues that if the clinical mediation does not succeed, mediators should be able to make recommendations regarding custody or visitation.

{21} MEDIATION—GENERAL

{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

{151} ROLE OF LAWYERS

Sarah Brand, *Caution to Clients: California's Mediation Confidentiality Statutes Protect Attorneys from Legal Malpractice Claims Arising Out of Mediation*, 37 T. JEFFERSON L. REV. 369 (2015).

This note describes California's current statutory scheme governing mediation, explains statutory approaches used in other states, and discusses the judicial opinions interpreting California's current statutes. Additionally, it argues that legislative reform and improvement are necessary because California's current mediation statutes fail to provide clients a fair and equitable remedy in legal malpractice claims. Lastly, it proposes a model guideline for an effective and limited exception to mediation confidentiality that permits use of mediation-related evidence in legal malpractice claims.

{60} ADR—GENERAL

{99} SUBJ MATTER: OTHER PROF MALPRACTICE

{132} CONFIDENTIALITY

{138} ETHICS: GENERAL

Charles N. Brower, Michael P. Daly & Sarah Melikian, *"Lessons" Confirmed While Serving As Arbitrator And Counsel In Arbitrations Involving Africa*, 30 EMORY INT'L L. REV. 5 (2015).

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This article explores several of the reservations that many African nations hold concerning international arbitration. The authors also analyze the growth of African arbitration and they also give their own arbitration experiences as counsels or arbitrators in disputes involving African States.

{44} ARBITRATION—GENERAL

{92} SUBJ MATTER: INT'L

David W. Brown, *Let Me In: The Right of Access to Business Disputes Conducted in State Courts*, *Delaware Coalition for Open Government v. Strine*, 733 F.3d 510 (3d Cir. 2013), 2015 J. DISP. RESOL. 207 (2015).

This article discusses arbitration that is used for business disputes and its relation to the First Amendment of the United States. It argues that the historic two-prong test for the right of access to civil proceedings also applies to arbitrations conducted in state courts. Finally, it suggests that the *Strine* decision is the correct approach to the issue.

{44} ARBITRATION—GENERAL

{81} SUBJ MATTER: CORPORATE

{125} COMPARISONS: HISTORICAL

Gina Viola Brown & Andrea Kupfer Schneider, *Gender Difference in Dispute Resolution Practice: Report on the ABA Section of Dispute Resolution Practice Snapshot Survey*, 47 AKRON L. REV. 975 (2015).

This paper analyzes the gender differences in dispute resolution practices. In particular, it identifies the methods neutrals use based on the neutrals' genders. The author specifically looks to a survey which examined "who was being selected as a neutral, by whom, using what process, and for what types of cases."

{60} ADR—GENERAL

{73} SUBJ MATTER: GENERAL

Michael J. Broyde, *Shari's and Halakha in North America: Faith-Based Private Arbitration as a Model for Preserving Rights and Values in a Pluralistic Society*, 90 CHI.-KENT L. REV. 111 (2015).

This article proposes applying the Jewish and Muslim communities' religiously-oriented private dispute resolution to a larger variety of religious and values-oriented communities. It discusses ways in which these religious-

oriented private dispute resolutions, particularly arbitration, can be conducted in order to help ensure a court will uphold the decisions.

{44} ARBITRATION—GENERAL

{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

{124} COMPARISONS: CROSS-CULTURAL

Elaine Bucklo & Thomas R. Meites, *What Every Judge Should Know about a Rule 23 Settlement (But Probably Isn't Told)*, 41 LITIGATION 18 (2015).

This article analyzes FRCP 23 and how judges often do not have the necessary information that they need to make an appropriate decision on whether the proposed settlement is appropriate. The author identifies all the aspects the judge can look to such as insurance coverage, discovery, other pending litigation, and class notice.

{60} ADR—GENERAL

{122} SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Scott Bukstein, *Preparing for Another Round of Collective Bargaining in the National Basketball Association*, 22 JEFFREY S. MOORAD SPORTS L.J. 373 (2015).

This article provides a preview of the specific collective bargaining agreement terms that NBA owners and the NBPA are expected to focus on in the months leading up to the opt-out deadline. It summarizes the NBA business model and economic climate and how it impacts the probability of players opting out of the current collective bargaining agreements. This article argues the expected outcome is less than ideal and should be avoided.

{1} NEGOTIATION—GENERAL

{95} SUBJ MATTER: LABOR—MANAGEMENT (UNION)

{107} SUBJ MATTER: SPORTS & ENTERTAINMENT

Daniel Burkhardt, *Agree to Disagree: The Circuit Split on the Definition of "Arbitration"*, 92 U. DET. MERCY L. REV. 57 (2015).

This article examines the lack of a definition for the word "arbitration." In doing so, the author discusses the current federal circuit split over how to define "arbitration." The article provides background on the debate and subsequently offers a theory on how courts will rule in the future.

{44} ARBITRATION—GENERAL
{73} SUBJ MATTER: GENERAL
{125} COMPARISONS: HISTORICAL

Richard C. Byrd, *When Arbitration Agreement Provisions Time Travel: Illusory Promises and Continued At-Will Employment in Baker*, 80 MO. L. REV. 519 (2015).

A recent Missouri decision invalidated an arbitration clause in an employment clause. That decision could have major implications for at-will employment contracts. This article examines how employees and employers might shape these contracts in the future based on that decision.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
{96} SUBJ MATTER: EMPLOYMENT (NON-UNION)
{126} REQUIREMENTS: CONTRACTUAL CLAUSES

Rebecca Callahan, *Mediation Advocacy: Negotiation Tips and Perspectives to Help You Up Your Game at Mediation*, 57 ORANGE COUNTY LAWYER 20 (2015).

This article gives suggestions to improve mediation advocacy and provides varied perspectives on improving mediation advocacy.

{21} MEDIATION—GENERAL
{73} SUBJ MATTER: GENERAL
{151} ROLE OF LAWYERS

Emily Canis, *One “Like” Away: Mandatory Arbitration for Consumers*, 26 GEO. MASON U. CIV. RTS. L.J. 127 (2015).

This article discusses the type of mandatory arbitration that is accepted by consumers without reading the fine print. Fighting against the favoritism towards mandatory arbitration, the author suggests that courts should favor the consumer in the unconscionable behavior of “I agree” or “click-wrap” situations.

{45} ARB: MANDATORY, -COURT-ANNEXED—GENERAL
{75} SUBJ MATTER: COMMERCIAL
{79} SUBJ MATTER: CONSUMER

Ashley Carleton, *An Ethics Analysis of Arbitrating Malpractice Claims*, 27 J. AM. ACAD. MATRIMONIAL LAW. 445 (2015).

This article analyzes the malpractice arbitration agreements in *Bezio v. Draeger* and the ethical issues that surround such provisions. This article provides a comparison to other States regarding the treatment of malpractice arbitration agreements. The article then looks at the implications of current approaches and the future of arbitration of malpractice claims.

{45} ARB: MANDATORY, -COURT- ANNEXED—GENERAL
{99} SUBJ-MATTER: OTHER-PROF-MAL.

Julien Chaisse, *The Treaty Shopping Practice: Corporate Structuring and Restructuring to Gain Access to Investment Treaties and Arbitration*, 11 HASTINGS BUS. L.J. 225 (2015).

This article addresses investment agreements that grant a right to foreign private investors to file a claim against host states before international arbitration tribunals. In recent years, the development of the international law of foreign investment has been criticized for giving too much power to foreign investors, while many have criticized international arbitration for not being able to develop a constant jurisprudence.

{44} ARBITRATION—GENERAL
{92} SUBJ MATTER: INT'L

Donald E. Childress III, *Is an International Arbitral Tribunal the Answer to the Challenges of Litigating Transnational Human Rights Cases in a Post-Kiobel World?*, 19 UCLA J. INT'L L. & FOR. AFF. 31 (2015).

This article critically analyzes the proposed International Arbitration Tribunal on Business and Human Rights, proposed in November 2014 as a response to the US Supreme Court's decision in *Kiobel v. Royal Dutch Petroleum*. The author argues that the Tribunal does not properly address procedures for appeal or enforcement, barriers to court access, and lack of incentives for participation and instead proposes an alternative approach through regulatory cooperation between nations.

{44} ARBITRATION—GENERAL
{81} SUBJ MATTER: CORPORATE
{92} SUBJ MATTER: INT'L

{146} ORGANIZATION POLICIES & RULES

Sheena Ching, *"Pay-For-Delay" Settlements Post-Actavis: Why Mediation Can Tackle the "Unreasonable" Antitrust Settlements*, 17 CARDOZO J. CONFLICT RESOL. 277 (2015).

This article suggests that mediation can be beneficial to the pharmaceutical industry in order to resolve the reverse payment settlement vs. antitrust debate and to satisfy the "rule of reason" requirement held by the *Federal Trade Commission v. Actavis* decision of June 2013.

{21} MEDIATION—GENERAL

{74} SUBJ MATTER: ANTITRUST

{105} SUBJ MATTER: SCIENCE & TECHNOLOGY

Beiping Chu, *Do Charterparty Arbitration Clauses Bind Brokers? - from A Perspective of Chinese Law*, 39 TUL. MAR. L.J. 661 (2015).

This article discusses two questions involving the international shipping market from the perspective of Chinese law in comparison to common law judicial practice: First, are the brokers able to refer their grievances against liable parties to arbitration? Second, are liable parties entitled to counterclaim against the brokers for their fault or omission under the arbitration clause in the charter party?

{60} ADR—GENERAL

{75} SUBJ MATTER: COMMERCIAL

{92} SUBJ MATTER: INT'L

{97} SUBJ MATTER: MARITIME

{124} COMPARISONS: CROSS-CULTURAL

Kenneth Cloke, *Designing Heart-Based Systems to Encourage Forgiveness and Reconciliation in Divorcing Families*, 53 FAM. CT. REV. 418 (2015).

This article discusses and examines the intricacies of settling disputes among family members. It advocates using heart-based strategies to resolve these disputes is the best approach to such dispute resolution.

{53} COLLABORATIVE LAW—GENERAL

{60} ADR—GENERAL

{73} SUBJ MATTER: GENERAL

{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

Christine A. Coates, *The Parenting Coordinator as Peacemaker and Peacebuilder*, 53 FAM. CT. REV. 398 (2015).

This article describes the role of a parenting coordinator. A parenting coordinator is a case manager that helps protect children from parental conflict and helps settle disputes in high-conflict families.

{60} ADR—GENERAL

{73} SUBJ MATTER: GENERAL

{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

James R. Coben, *Barnacles, Aristocracy and Truth Denial: Three Not So Beautiful Aspects of Contemporary Mediation*, 16 CARDOZO J. CONFLICT. RESOL. 779 (2015).

This article explores why forced mediation and the current emphasis on settlement over anything, may be encouraging mediators to rush to the conclusion, rather than truly taking the whole case into consideration. The author explores how mediation has become an integral part of U.S. litigation, how much deference is given to class action mediators, and the denial that truth exists within the mediation.

{21} MEDIATION—GENERAL

{102} SUBJ MATTER: PUBLIC POLICY

{123} SETTLEMENT: PRESSURES TO SETTLE

Nicole Cocozza, *Instagram Sets a Precedent by an "Insta" Change in Social Media Contracts & Users' Ignorance of Instagram's Terms of Use May Lead to Acceptance by a Simple "Snap"*, 15 J. HIGH TECH. L. 363 (2015).

This article argues that Instagram's new terms of use policy will set a precedent for how social media network companies should develop their future user contract policies. This article explores the basic principles of entering into a contract, with an emphasis on substantive contract law provisions exemplified by the Restatement, the Uniform Commercial Code (UCC) and Uniform Computer Information Transaction Act (UCITA).

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL

{78} SUBJ MATTER: COMPUTER

{79} SUBJ MATTER: CONSUMER
 {126} REQUIREMENTS: CONTRACTUAL CLAUSES

Sarah Cole, *Blurred Lines: Are Non-Attorneys Who Represent Parties in Arbitrations Involving Statutory Claims Practicing Law?*, 48 U.C. DAVIS L. REV. 921 (2015).

This article argues that continuing to allow non-lawyer representation in current arbitration amounts to the sanctioning of the unauthorized practice of law. If this practice is allowed to continue, the article argues that the consumer is placed at risk. Finally, the author argues that the best remedy to this problem is by revising the Federal Arbitration Act.

{44} ARBITRATION—GENERAL
 {144} LEGISLATION
 {151} ROLE OF LAWYERS

Mary Kate Coleman, *How to Avoid Mediation Settlement Blow-Ups*, 17 LAWYERS J. 6 (2015).

This article proposes and analyzes strategies to avoid the risk of a mediation settlement agreement falling apart after the mediation has concluded.

{21} MEDIATION—GENERAL
 {60} ADR—GENERAL
 {122} SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Alexander J. S. Colvin & Mark D. Gough, *Individual Employment Rights Arbitration In The United States: Actors and Outcomes*, 68 IND. & LAB. REL. REV. 1019 (Oct. 2015).

This article reviews statistics from an eleven year span of employment arbitration cases (2,802 cases total) that were administered by the American Arbitration Association (AAA). It focuses on the process and success of dispute resolution in this “new” area of employment relations. It also focuses on the different predictors for settlements before and after the arbitration hearing. to investigate the process of dispute resolution in this new institution of employment relations.

{44} ARBITRATION— GENERAL
 {96} SUBJ MATTER: EMPLOYMENT (NON-UNION)

{147} POWER IMBALANCE

Anne Conley, *Promoting Finality: Using Offensive, Nonmutual Collateral Estoppel in Employment Arbitration*, 5 U.C. IRVINE L. REV. 652 (2015).

This article addresses the problems around adhesion contracts and nonmutual collateral estoppel. After identifying the issues, the author then provides suggestions and strategies on how to use nonmutual collateral estoppel to improve arbitration.

{44} ARBITRATION—GENERAL

{96} SUBJ MATTER: EMPLOYMENT (NON-UNION)

Giuditta Cordero-Moss, *Limits on Party Autonomy in International Commercial Arbitration*, 4 PENN. ST. J.L. & INT'L AFF. 186 (2015).

This article addresses the international contracts with arbitration requirements and the self-sufficiency created therein. It discusses to what extent the legal framework provided by the contract and possibly given effect to in arbitration may resist control and interference by national law and to what extent the principle of faithful interpretation to the wording of the contract may be a guiding principle for arbitral tribunals.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL

{75} SUBJ MATTER: COMMERCIAL

{92} SUBJ MATTER: INT'L

{133} COURT REFORMS

Charles B. Craver, *How to Conduct Effective Telephone and E-mail Negotiations*, 17 CARDOZO J. CONFLICT RESOL. 1 (2015).

This article explores the many ways in which negotiators can use telephone calls and e-mail correspondence to make deals. The topics covered include what to consider when talking on the phone, what issues arise with cell phones rather than landlines, how e-mail dealings differ from in-person communications, and what lawyers can do to enhance their use of these modern avenues of communication.

{1} NEGOTIATION—GENERAL

{78} SUBJ MATTER: COMPUTER

{105} SUBJ MATTER: SCIENCE & TECHNOLOGY

Charles B. Craver, *New Directions in Community Lawyering, Social Entrepreneurship, and Dispute Resolution: The Use of Mediation to Resolve Community Disputes*, 48 WASH. U. J.L. & POL'Y 231 (2015).

This article analyzes the effect of mediation on community disputes, such as property and neighborhood conflicts. Different types of mediators, dispute resolution techniques and preparation for party interaction are among the substantive issues discussed. The author suggests that mediation can significantly enhance the well-being of negotiating parties, compared to arbitration or the political process.

{21} MEDIATION—GENERAL
 {77} SUBJ MATTER: COMMUNITY
 {138} ETHICS: GENERAL

Susan Swaim Daicoff, *Families in Circle Process: Restorative Justice in Family Law*, 53 FAM. CT. REV. 427 (2015).

This article describes and analyzes the use of the circle process to widen the scope of parties involved in resolving family disputes. It explains that by using the circle process, enhanced group decisionmaking will result

{53} COLLABORATIVE LAW—GENERAL
 {60} ADR—GENERAL
 {73} SUBJ MATTER: GENERAL
 {85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

Kenneth G. Dau-Schmidt, *Labor Law 2.0: The Impact of New Information Technology on the Employment Relationship and the Relevance of the NLRA*, 64 EMORY L.J. 1583 (2015).

This article examines key terms in the National Labor Relations Board's collective bargaining system. Because of changes in employment trends, such as short-term contingent employment, words such as "employee" have become unclear. Furthermore, new information technology presents further changes in this area which will affect the system.

{53} COLLABORATIVE LAW—GENERAL
 {96} SUBJ MATTER: EMPLOYMENT (NON-UNION)
 {144} LEGISLATION

Will Davidson & Julia Guarino, *The Hallett Decrees and Acequia Water Rights Administration on Rio Culebra in Colorado*, 26 COLO. NAT. RES. ENERGY & ENVTL. L. REV. 219 (2015).

This article discusses the conflict over the right to use water from the Rio Culebra, a river in Colorado, and its tributaries. These conflicts stem from decrees of transferred water rights belonging to the *parciantes* under Colorado law. This article proposes that a negotiated settlement approved by a Colorado water court would be the best option to preserve the status quo. Doing this could also prevent injury to other water rights users.

{53} COLLABORATIVE LAW—GENERAL
{84} SUBJ MATTER: ENVIRONMENT

Louis F. Del Duca, Colin Rule & Brian Cressman, *Lessons and Best Practices for Designers of Fast Track, Low Value, High Volume Global Ecommerce ODR Systems*, 4 PENN. ST. J.L. & INT'L AFF. 242 (2015).

Consumer and business groups around the world are promoting fair, proportionate, effective, online, fast track redress for low value high volume cross border e-commerce disputes. As a result, there will continue to be increasing demand for a variety of effective ODR systems design and procedural rules. Best practices developed by entities like eBay can be helpful in developing framework models for fast track low value high volume e-commerce ODR systems.

{60} ADR—GENERAL
{75} SUBJ MATTER: COMMERCIAL

Giuseppe De Palo & Romina Canessa, *Sleeping? Comatose? Only Mandatory Consideration of Mediation Can Awake Sleeping Beauty in the European Union*, 16 CARDOZO J. CONFLICT. RESOL. 713 (2015).

This article explores whether mandatory mediation with the option to opt-out, as proposed in 2014 by the European Parliament-commissioned study, “Rebooting the Mediation Directive: Assessing the Limited Impact of its Implementation and Proposing Legislative and Non-Legislative Measures to Increase the Number of Mediations in the EU,” may be the only way to save mediation in the European Union.

{21} MEDIATION—GENERAL

{92} SUBJ MATTER: INT'L

Berk Demirkol, *Remedies in Investment Treaty Arbitration*, J Int. Disp. Settlement (2015) 6(2): 403-426 (2015).

This article evaluates the remedies that are available in investment treaty arbitrations. It also attempts to fill an apparent gap in research about investment arbitration remedies.

{44} ARBITRATION—GENERAL

{81} SUBJ MATTER: CORPORATE

{92} SUBJ MATTER: INT'L

Gabrielle DeNaro, *Welcome to the Jungle, Where the Rent is Too Damn High: Using Rent Regulation in New York City to Maintain an Affordable Housing Stock*, 16 CARDOZO J. CONFLICT RESOL. 939 (2015).

This note proposes that the best way to reach a solution to the issue of rent regulation in New York City is to create a forum for binding arbitration between landlords and tenants of rent controlled buildings. The arbitrator would assess whether the renter is truly in need of the reduced rent and, if the renter does not need the lower price, would help find a new price.

{44} ARBITRATION—GENERAL

{90} SUBJ MATTER: RENTAL HOUSING

Christian Dennie, *The Benefits of Arbitration: Arbitration in NCAA Student-Athlete Participation and Infractions Matters Provides for Fundamental Fairness*, 46 U. MEM. L. REV. 135 (2015).

This article analyzes the current dispute resolution process for student-athletes and the NCAA. This article argues that arbitration should be the primary method for resolving these disputes because it offers a more balanced and fair alternative for addressing appeals in matters relating to student-athlete participation.

{44} ARBITRATION—GENERAL

{107} SUBJ MATTER: SPORTS & ENTERTAINMENT

Diane A. Desierto, *Rawlsian Fairness and International Arbitration*, 36 U. PA. J. INT'L L. 939 (2015).

This paper applies Rawlsian fairness analysis to each of the four “fairness” based critiques of international arbitration, finding ultimately that each asserted critique requires more careful differentiation as to perceived inequalities in arbitration procedures, communities, and outcomes.

{44} ARBITRATION—GENERAL

{92} SUBJ MATTER: INT’L

Burton S. DeWitt, *A Judgment Without Merits: The Recognition and Enforcement of Foreign Judgments Confirming, Recognizing, or Enforcing Arbitral Awards*, 50 TEX. INT’L L.J. 495 (2015).

This article details private mechanisms of dispute resolution in foreign arbitration judgments. It proposes that U.S. courts give deference to foreign judgments confirming, recognizing or enforcing arbitration awards. The enforceability of foreign judgments is justified through certain U.S. statutes, which are detailed thoroughly.

{44} ARBITRATION—GENERAL

{92} SUBJ MATTER: INT’L

{122} SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Shauna Teresa DiGiovanni, *Underpaid, Unrepresented, Unprotected: A Call for a Change in the Status Quo of Minor League Baseball*, 22 SPORTS LAW.J. 243 (2015).

This article argues that the United States Congress, the courts, and collective bargaining have jointly facilitated the perpetual exploitation of Minor League Baseball players. It aims to explore the possible future of minor league working conditions following a recent lawsuit regarding anti-trust laws.

{53} COLLABORATIVE LAW— GENERAL

{95} SUBJ MATTER: LABOR— MANAGEMENT (UNION)

{107} SUBJ MATTER: SPORTS & ENTERTAINMENT

James Diskint, *Safe and Sound: How ADR Can Protect Aquatic Life and National Security*, 16 CARDOZO J. CONFLICT RESOL. 965 (2015).

This note proposes that the ongoing legal dispute between the Natural Resources Defense Council and the Navy over the Navy’s use of Low

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Frequency Active Sonar at sea would be best resolved through mediation sponsored by the U.S. Institute for Environmental Conflict Resolution. This form of dispute resolution would help protect aquatic life and national security, and encourage the parties to work together to find productive solutions.

{21} MEDIATION—GENERAL
{97} SUBJ MATTER: MARITIME
{105} SUBJ MATTER: SCIENCE & TECHNOLOGY

Rochelle Dreyfuss & Susy Frankel, *From Incentive to Commodity to Asset: How International Law is Reconceptualizing Intellectual Property*, 36 MICH. J. INT'L L. 557 (2015).

This article discusses intellectual property (IP), and the effects of a shift from quantitative to a qualitative solidification of the IP landscape. In doing so, the article discusses dispute resolution and its role in protecting IP.

{60} ADR—GENERAL
{105} SUBJ MATTER: SCIENCE & TECHNOLOGY

Donna Erez-Navot, *The Repeat Player Effect in Child Protection Mediation: Dangers of and Protections Against Second-Class Justice for Marginalized Parties*, 16 CARDOZO J. CONFLICT RESOL. 831 (2015).

This article attempts to answer the question of whether court annexed mediation, especially in cases of child protection, can truly safeguard both parties and provide first time or one-shot litigants with a more just outcome than litigation. The author analyzes the effect of repeat players in child protection cases and suggests various solutions to the ethical problems that arise in these contexts.

{21} MEDIATION—GENERAL
{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)
{151} ROLE OF LAWYERS

David Ezra, *The Mediator's Nightmare: Am I the Most Unreasonable Party's Advocate?*, 57 ORANGE CNTY. LAW. 32 (2015).

This article discusses the risk of a mediator becoming a biased advocate for an unreasonable party. The author discusses a scenario where an unreasonable party refuses to change their position. As a result, the mediator talks the other

party into changing their offer in an attempt to get the unreasonable party to move from their position.

{21} MEDIATION—GENERAL

{138} ETHICS: GENERAL

Jeremy Feigenbaum, *Bargaining in the Shadow of the "Law?" - The Case of Same-Sex Divorce*, 20 HARV. NEGOT. L. REV. 245 (2015).

This article summarizes the different legal regimes States might develop regarding same-sex divorce and explains how bargaining should differ for divorcing same-sex couples in different states. The article describes how the Supreme Court's decision in *United States v. Windsor* will affect bargaining between divorcing same-sex couples and how a decision recognizing that same-sex couples have a constitutional right to marry might further impact their bargaining.

{1} NEGOTIATION—GENERAL

{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

Steven W. Feldman, *Pre-Dispute Arbitration Agreements, Freedom of Contract, and the Economic Duress Defense: A Critique of Three Commentaries*, 64 CLEV. ST. L. REV. 37 (2015).

This article analyzes the connection between the economic duress defense, generally, and the Federal Arbitration Act (FAA), specifically. The author expresses his concerns of the proposed use of an expanded economic duress defense to help consumers combat unfair pre-dispute arbitration agreements. The author demonstrates that the economic duress defense and FAA both emphasize freedom of contract as they promote the necessary certainty and predictability of contractual relations.

{44} ARBITRATION—GENERAL

{79} CONSUMER

{144} LEGISLATION

Katherine H. Flynn, *Not Open for Business: A Review of South Carolina's Arbitration Venue Statute, and a Proposal for Reform*, 66 S.C. L. REV. 727 (2015).

South Carolina's arbitration venue statute states that agreements requiring arbitration outside of South Carolina are unenforceable if the arbitration issue could be settled in South Carolina Courts. The author argues that this statute is preempted by federal law. The article also examines more narrow alternatives to the arbitration venue statute that would be permissible.

{44} ARBITRATION—GENERAL
 {73} SUBJ MATTER: GENERAL
 {128} REQUIREMENTS: STATUTORY OR RULES

Hon. John C. Foster & Richard L. Hurford, *ADA Within ADA: Business Courts as Laboratories for Litigation Process Improvement*, 94 MICH. B. J. 20 (2015).

This article focuses on alternative dispute resolution (ADR) in business courts. Particularly, it looks at a Michigan law which created specialized business courts charged with resolving business disputes in an "alternative manner". The article discusses how this new law has affected how judges look at their role on these courts, and ADR in general.

{60} ADR—GENERAL
 {81} SUBJ MATTER: CORPORATE
 {121} SETTLEMENT: AUTHORITY

Susan D. Franck et al., *The Diversity Challenge: Exploring the "Invisible College" of International Arbitration*, 53 COLUM. J. TRANSNATIONAL L. 429 (2015).

This article utilizes publicly available data derived from a survey of attendees at the biennial Congress of the International Council for Commercial arbitration to provide a glimpse into the membership of the international arbitration community. Because little is known about the diversity of adjudicators and counsel in international arbitration, the article provides an in-depth analysis of the makeup of the international arbitration community. Specifically, the data supported claims that international arbitration is a relatively homogeneous group.

{44} ARBITRATION—GENERAL
 {92} INTERNATIONAL
 {124} COMPARISONS: CROSS-CULTURAL
 {138} ETHICS: GENERAL

Susan D. Franck & Lindsey E. Wylie, *Predicting Outcomes in Investment Treaty Arbitration*, 65 DUKE L.J. 459 (2015).

This article compiled and analyzed data on 159 investment treaty arbitration awards. The authors used this data to explore the pros and cons of investment treaty arbitration (ITA) and presented data concerning which type of parties benefitted more from this type of arbitration. The article then explores whether ITA outcomes varied depending upon investor identity, state identity, the presence of repeat-player counsel, arbitrator-related, or venue variables.

{44} ARBITRATION—GENERAL

{88} SUBJ MATTER: GOV'T CONTRACTS

{92} SUBJ MATTER: INT'L

Tracey B. Frisch, *Death by Discovery, Delay, and Disempowerment: Legal Authority for Arbitrators to Provide a Cost-Effective and Expeditious Process*, 17 CARDOZO J. CONFLICT RESOL. 155 (2015).

This article seeks to empower arbitrators to take more of the arbitration process into their own hands in order to make the entire process more effective. The author outlines how arbitrators can do things like deny unnecessary discovery requests, excessive adjournment requests, or sanctioning parties for failure to comply with various parts of the arbitration without putting their arbitral award in danger of vacatur.

{44} ARBITRATION—GENERAL

{102} SUBJ MATTER: PUBLIC POLICY

{138} ETHICS: GENERAL

{151} ROLE OF LAWYERS

Stephen Gieger, *Chinese Drywall: Defending Class Actions in the United States and the Need for Arbitration*, 24 TUL. J. INT'L & COMP. L. 237 (2015).

This article examines the aftereffects of the Chinese drywall installed in more than 20,000 homes which was identified as a cause of nosebleeds, headaches, and asthma attacks for thousands of Americans exposed to the product. The article proposes arbitration as an equitable alternative for adjudicating international products liability claims and concludes that arbitration is the most reliable means of holding foreign manufacturers accountable.

{44} ARBITRATION—GENERAL

{79} SUBJ MATTER: CONSUMER
 {92} SUBJ MATTER: INT'L
 {102} SUBJ MATTER: PUBLIC POLICY
 {109} SUBJ MATTER: TOXIC TORTS

Ronald A. Giller, et al., *Enforcing Arbitration Awards in International Franchising*, 34 FRANCHISE L.J. 351 (2015).

This article examines the global franchising market and argues that franchisors must be able to enforce their agreements and protect their intellectual property in every market they enter—including internationally. The article then takes a closer look at the enforceability through the arbitration process, including challenges relating to the extraterritorial application of the Lanham Act, and focuses on how courts in certain emerging markets have dealt with U.S. awards and what obstacles franchisors may face.

{44} ARBITRATION—GENERAL
 {92} SUBJ MATTER: INT'L

Myriam Gilles, *Individualized Injunctions and No-Modification Terms: Challenging 'Anti-Reform' Provisions in Arbitration Clauses*, 69 U. MIAMI L. REV. 469 (2015).

This article considers the enforceability of anti-reform provisions that are beginning to appear in contemporary arbitration clauses after major pro-arbitration decisions. The courts in recent years have been very pro-arbitration. This article, however, argues that these clauses should not be enforceable.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
 {102} SUBJ MATTER: PUBLIC POLICY
 {127} REQUIREMENTS: MANDATE TO USE

J. Maria Glover, *Arbitration, Transparency, And Privatization: Disappearing Claims and the Erosion of Substantive Law*, 123 YALE L.J. 3052 (2015).

This article argues that the expansion of arbitration is a threat to the policy and law making process. The shift from public arbitration to private arbitration is not only causing the public to lose faith in the arbitration system itself, but also causing the destruction of the values and tools of arbitration. The Court's

further support of private arbitration not only brings harm to the structure of arbitration itself but also the substantive law that arbitration is based on.

{44} ARBITRATION—GENERAL

{144} LEGISLATION

John Goodlander, *Cy Pres Settlements: Problems Associated with the Judiciary's Role and Suggested Solutions*, 56 B.C. L. REV. 733 (2015).

This article discusses the reoccurring problem of class members never receiving funds generated by their class action settlements and offers a mechanism for curing the issue. The author proposes utilizing cy pres distributions to charitable organizations that advance the interests in line with those of the class members. The article examines several problems generated by judges involved with the cy pres distributions and suggests the removal of judges from the process of allocating unclaimed class action settlement funds.

{53} COLLABORATIVE LAW—GENERAL

{73} GENERAL

{102} SUBJ MATTER: PUBLIC POLICY

{122} ENFORCEMENT OF SETTLEMENT OR AWARD

Elayne E. Greenberg, *Fitting the Forum to the Pernicious Fuss: A Dispute System Design to Address Implicit Bias and 'Isms in the Workplace*, 17 CARDOZO J. CONFLICT RESOL. 75 (2015).

This article expands the research on implicit bias to dispute system design in order to find a better solution for employees who find systemic inadequacies in the EEOC mediation program when they have workplace discrimination issues. The author discusses the failings of the EEOC mediation program in depth and provides a new dispute system design to better respond to discrimination in mediation caused by the implicit biases of the actors.

{21} MEDIATION—GENERAL

{96} SUBJ MATTER: EMPLOYMENT (NON-UNION)

{147} POWER IMBALANCE

Stephanie Greene & Christine Neylon O'Brien, *The NLRB v. the Courts: Showdown over the Right to Collective Action in Workplace Disputes*, 52 AM. BUS. L. J. 75 (2015).

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This article reviews Supreme Court decisions that impact forced arbitration in employment and examines the NLRB's decision in the D.R. Horton case. The authors discuss how the Fifth Circuit and other federal district courts have largely discredited the NLRB's ruling and argues that courts have been too easily swayed by the pro-arbitration climate, without giving proper deference to the implications of section 7 rights. Finally, the author provides support for the NLRB's conclusion that agreements barring employees from resolving disputes through class or collective action in both the arbitral and judicial forums are invalid.

{44} ARBITRATION—GENERAL
{96} EMPLOYMENT (NON-UNION)
{128} REQUIREMENTS: STATUTORY OR RULES
{147} POWER IMBALANCE

Kati L. Griffith, *Worker Centers and Labor Law Protections: Why Aren't They Having Their Cake?*, 36 BERKELEY J. EMP. & LAB. L. 331 (2015).

This article discusses private sector worker centers, and examines the applicability of the National Labor Relations Act (NLRA) to the worker organizing activities of these private sector worker centers. The author then considers the extent to which NLRA protections have been helpful to worker center organizing efforts to date. The article then argues that the NLRA's section 7 protections for collective activity have not been very meaningful to worker centers in practice and proposes several theories to explain why worker centers have not turned to the NLRA's protections more proactively.

{21} MEDIATION—GENERAL
{93} SUBJ MATTER: LABOR—GENERAL
{94} SUBJ MATTER: LABOR—DISCRIMINATION
{95} SUBJ MATTER: LABOR—MANAGEMENT (UNION)

Bruce L. Hay, *A No-Fault Approach to the Duty to Settle*, 68 RUTGERS L. REV. 321 (2015).

The author of this article compares the fault and no-fault standards for insurer's duty to settle. He argues that currently, the fault standard is used but claims that the no-fault standard is a better standard to use.

{53} COLLABORATIVE LAW—GENERAL
{91} SUBJ MATTER: INSURANCE

{121} SETTLEMENT: AUTHORITY

Michael A. Helfand, *Arbitration, Transparency, And Privatization: Arbitration's Counter-Narrative: The Religious Arbitration Paradigm*, 124 YALE L.J. 2994 (2015).

The author claims that arbitration is often preferred over litigation due to its cost efficiency and time efficiency. However, the author also argues that in religious disputes, many individuals do not focus on the benefits of arbitration. Finally, the author argues that arbitration can be used as a powerful venue to resolve religious disputes and help individuals come to agreements while still respecting their specific moral values.

{44} ARBITRATION—GENERAL

{124} COMPARISONS: CROSS-CULTURAL

Michael A. Helfand, *Between Law and Religion: Procedural Challenges to Religious Arbitration Awards*, 90 CHI.-KENT L. REV. 141 (2015).

This article focuses on a specific problem associated with religious arbitration agreements. Specifically, it focuses on the issue that females are not permitted to testify when an arbitration award is being determined. The author analyzing this issue by applying arbitration and constitutional doctrines.

{44} ARBITRATION—GENERAL

{76} SUBJ MATTER: CIVIL RIGHTS

{124} COMPARISONS: CROSS-CULTURAL

Kathryn Hendley, *Judges as Gatekeepers to Mediation: The Russian Case*, 16 CARDOZO J. CONFLICT. RESOL. 423 (2015).

Russia authorized the use of mediation in 2011, but has not utilized it widely since then. This article explores the role of judges in Russian mediation and speculates why there may be a reluctance to recommend mediation to parties in Russian courts. The author suggests that a greater understanding of the method and advantages of mediation among judges may increase its use in Russia.

{21} MEDIATION—GENERAL

{92} SUBJ MATTER: INT'L

{124} COMPARISONS: CROSS-CULTURAL

Richard Higgins & Jeffery Klenk, *An Application of Nash Bargaining to Intellectual Property Negotiations*, 25 FED. CIR. B.J. 125 (2015).

This article is a hypothetical bargaining problem that is likely to arise when the owner of an invention, which is assumed to lower the marginal cost of production, negotiates a patent license with producers. Using applications of Nash's bargaining theory, the writers suggest that using a 50/50 profit split as a baseline is inappropriate.

{1} NEGOTIATION—GENERAL
{105} SUBJ MATTER: SCIENCE & TECH.

David Horton & Andrea Cann Chandrasekher, *After the Revolution: An Empirical Study of Consumer Arbitration*, 104 GEO. L.J. 57 (2015).

This article analyzes nearly 5,000 complaints filed by consumers with the American Arbitration Association between the years 2009 and 2013. It provides information about filing rates, outcomes, damages, costs, and case length. It also argues that the rise of arbitration has destroyed consumer class action law suits.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
{75} SUBJ MATTER: COMMERCIAL
{133} COURT REFORMS

Jill Howieson & Lynn Priddis, *A Mentalizing-Based Approach to Family Mediation: Harnessing Our Fundamental Capacity to Resolve Conflict and Building an Evidence-Based Practice for the Field*, 53 FAM. CT. REV. 79 (2015).

This article reviews and presents the results of a research study into mentalizing in family mediation. The study identified that, when the mediators adopted a mentalizing stance to facilitate the parties to engage their mentalizing capacities and, in particular, to mentalize for the child, the mediation process became more constructive and meaningful. The author proposes that a mentalizing-based approach should be incorporated into the research and education of mediation.

{21} MEDIATION—GENERAL
{85} FAMILY (DOMESTIC REL.)

{134} DISPUTE PREVENTION

Jonathan M. Hyman, *Beyond Fairness: The Place of Moral Foundations Theory in Mediation and Negotiation*, 15 NEV. L.J. 959 (2015).

This article explores whether moral psychology, in particular Moral Foundations Theory, can provide a insight into how fairness works in mediation and negotiation. Moral judgment is not limited to "fairness" or "justice," but contains five or six kinds of moral judgments. This range may give mediators a more powerful tool to understand the operation of moral judgments and to work with them to achieve their goals.

{21} MEDIATION—GENERAL

{73} SUBJ MATTER: GENERAL

{138} ETHICS: GENERAL

M. Saleh Jaber & Bruno Zeller, *How Much Can It Be Bent Before Breaking? Changing the Foundations of Arbitration in Securities Disputes*, 15 PEPP. DISP. RESOL. L.J. 317 (2015).

This article analyzes how the freedom to enter into an arbitration agreement and selection of arbitrators has changed in relation to rules and practice in securities disputes. This article looks to both civil and common law systems and attempts to identify securities arbitration's limitations and discover the extent to which such arbitration has changed, and whether the same basic structure still exists, or a new form of ADR has emerged.

{44} ARBITRATION—GENERAL

{92} SUBJ MATTER: INT'L

{106} SUBJ MATTER: SECURITIES

Hon. Yong-Beum Jahng & Ryul Kim, *The Recognition and Enforcement of Foreign Arbitral Awards in Korea: With Focus on the U.S. Matters*, 15 PEPP. DISP. RESOL. L.J. 567 (2015).

This article is an adaptation of an essay written by the Honorable Yong-Beum Jahng. The article summarizes the laws and treaties of Korea which recognize and enforce foreign arbitration awards. Further, the article examines the application and scope of the New York Convention on arbitration in Korea. This includes an analysis of public policy issues, enforcement of arbitral awards and the recognition of U.S. arbitral awards in the Korean Court system.

{44} ARBITRATION—GENERAL
 {92} SUBJ MATTER: INT'L
 {124} COMPARISONS: CROSS-CULTURAL

Joanna Jemielnlak & Stefanie Pfisterer, *Iura Novit Arbiter Revisited: Towards a Harmonized Approach?*, 20 UNIF. L. REV. 56 (2015).

This article examines the principle *Iura curia* in three different contexts. First, the principle is analyzed in the general context of international commercial arbitration. Secondly, we look to the principle's use in the hybrid arbitration model that incorporates aspects of civil and common law jurisdictions. Lastly, the principle is examined in conjunction with other potentially conflicting principles. The author concludes her analysis by setting out recommendations and guidelines for using this principle within the practice of arbitration.

{44} ARBITRATION—GENERAL
 {92} SUBJ MATTER: INT'L
 {144} LEGISLATION

Jonathan S. Jennings, *Developing Domain Name Enforcement Options*, 34 FRANCHISE L.J. 521 (2015).

This article takes a look at the phenomenon called "cybersquatting." It finds that disputes can occur between franchisors and franchisees over domain names. As a result, the Internet Corporation for Assigned Names and Numbers (ICANN) has established some dispute resolution procedures for domain name disputes. This article takes a look at the different forums available to help brand owners stop unauthorized registration and use of their domain names.

{44} ARBITRATION—GENERAL
 {105} SUBJ MATTER: SCIENCE & TECHNOLOGY

Tal Kastner, *How 'Bout Them Apples?: The Power of Stories of Agreement in Consumer Contracts*, 7 DREXEL L. REV. 67 (2015).

This article reveals the ways that stories of agreement themselves can be a form of power to be leveraged by firms at the expense of consumers—especially in connection with procedural contract terms. In addition, this article shows how the stories told by courts reveal shared norms of fairness that purport to enable the possibility of agreement. It supports the presumptive

unenforceability of predispute-arbitration. More broadly, it highlights contract as the site at which the definitions of freedom and agency continue to be negotiated in America today.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
{79} SUBJ MATTER: CONSUMER
{126} REQUIREMENTS: CONTRACTUAL CLAUSES

Chloe Keating, *Fair Standards for Labor Arbitration: An Analysis of the FLSA and FAA*, 88 TEMP. L. REV. 137 (2015).

This article discusses the current status of FLSA litigation and employment arbitration. It provides an overview of the Fair Labor Standards Act and the Federal Arbitration Act (FAA). The article also suggests ways to encourage early settlement, and it offers amendments to the FAA which would even out the procedural advantages in arbitration to both employers and employees.

{44} ARBITRATION—GENERAL
{104} SUBJ MATTER: REGULATORY
{121} SETTLEMENT: AUTHORITY

Amalia D. Kessler, *Arbitration and Americanization: The Paternalism of Progressive Procedural Reform*, 124 YALE L.J. 2940 (2015).

This article addresses the common conception that the Federal Arbitration Act (FAA) was a progressive procedural reform. The author disagrees with this commonly held belief, and argues that the FAA is actually a paternalistic program with dark implications.

{44} ARBITRATION—GENERAL
{128} REQUIREMENTS: STATUTORY OR RULES

Grant L. Kim, *Korea's "Bali Bali" Growth in International Arbitration*, 15 PEPP. DISP. RESOL. L.J. 615 (2015).

This article examines Korea's transformation from a poverty-stricken nation to a leading economic power in a very short span of time. This surge to the forefront was aided by Korea's willingness to embrace international arbitration and their solid legal framework in general. Additionally, the author analyzes the future of international arbitration in Korea looking forward.

{44} ARBITRATION—GENERAL

{92} SUBJ MATTER: INT'L

{124} COMPARISONS: CROSS-CULTURAL

Yeongsik Kim, *Using Collective Bargaining To Combat LGBT Discrimination In The Private-Sector Workplace*, 30 WIS. J.L. GENDER & SOC'Y 73 (2015).

This article analyzes how collective bargaining could be the most effective and efficient means of recognizing and enforcing the rights of the LGBTQ community of private-sector workers. Using collective bargaining to gain the rights and arbitration to enforce the rights, the LGBTQ community of private-sector workers could be tactical and strategic considerations that are needed. The article also lays out the legal framework to complete this task.

{1} NEGOTIATION—GENERAL

{95} SUBJ-MATTER: LABOR—MANAGEMENT (UNION).

Emma Kingdon, *A Case for Arbitration: The Philippines' Solution for the South China Sea Dispute*, 38 B.C. INT'L & COMP. L. REV. 129, 129 (2015).

This note argues that arbitration under Annex. VII of the United Nations Convention on the Law of the Sea (UNCLOS) would be the most effective resolution method and would lead to the most favorable outcome for the Philippines against China in the South China Sea (SCS) Dispute. Overall, not only would arbitration lead to the most efficient and favorable outcome for the Philippines, but it would also lay the groundwork for future stability among all claimant states in the SCS.

{44} ARBITRATION—GENERAL

{92} SUBJ MATTER: INT'L

{97} SUBJ MATTER: MARITIME

Bruce W. Klaw, *State Responsibility for Bribe Solicitation and Extortion: Obligations, Obstacles, and Opportunities*, 33 BERKELEY J. INT'L L. 60 (2015).

This article discusses how bribery and extortion in international business transactions and foreign direct investment may be prevented. It assesses the opportunities and obstacles currently associated with invoking State responsibility through investor-State arbitration and State-to-State dispute resolution mechanisms such as diplomatic protection. Based on this analysis,

it offers a series of suggested improvements that should better enable these international dispute resolution mechanisms to help prevent corruption.

{44} ARBITRATION—GENERAL

{92} SUBJ MATTER: INT'L

Melissa (YoungJae) Koo, *Repatriation of Korean Cultural Property Looted by Japan – Can a Sincere Apology Resolve the Centuries-Old Korea/Japan Disputes?*, 16 CARDOZO J. CONFLICT RESOL. 625 (2015).

This note analyzes the relationship between Korea and Japan, what has been done in the past to repatriate cultural objects, and the obstacles that repatriation has encountered. The author also summarizes the ADR based options available to both parties and the problems that conventional ADR methods encounter. Finally, the author suggests that an unconventional form of ADR, a sincere apology, is what is actually needed to resolve this dispute.

{60} ADR—GENERAL

{92} SUBJ MATTER: INT'L

{124} COMPARISONS: CROSS-CULTURAL

Kimberlee K. Kovach, Symposium, *The Mediation Coma: Purposeful or Problematic*, 16 CARDOZO J. CONFLICT RESOL. 755 (2015).

This article examines what mediation was historically meant to accomplish and why it seems to have fallen into a complete coma, unable to fill any of its early promises. The author examines the possible reasons behind the coma and how to awake mediation, if that is at all possible, before it dies.

{21} MEDIATION—GENERAL

{73} SUBJ MATTER: GENERAL

Elizabeth Kristen, Blanca Banuelos & Daniela Urban, *Workplace Violence and Harassment of Low-Wage Workers*, 36 BERKELEY J. EMP. & LAB. L. 169 (2015).

This article argues that low-wage workers face harassment and violence in the workplace. These workers face obstacles in seeking justice. The article discusses the barriers these workers face, and strategies for legal advocates in helping combat violence and harassment in the workplace. The article discusses the process of filing administrative complaints with the DFEH

and/or the EEOC.

{38} NON-BINDING RECOMMENDATION PROC—GENERAL
{94} SUBJ MATTER: LABOR—DISCRIMINATION

Katherine R. Kruse, Bobbi McAdoo & Sharon Press, *Client Problem Solving: Where ADR and Lawyering Skills Meet*, 7 ELON L. REV. 225 (2015).

This article traces the similarities between some of the key components of the ADR movement and clinical pedagogy. It analyzes the history of ADR and the lessons ADR contributes to pedagogy based on client problem solving. The article then looks to how similar lessons about client problem solving developed in clinical pedagogy, as clinicians figured out how to teach students in practice-based settings.

{60} ADR—GENERAL
{73} SUBJ MATTER: GENERAL
{83} SUBJ MATTER: EDUCATION
{151} ROLE OF LAWYERS
{155} TEACHING

Yaraslau Kryvoi & Dmitry Davydenko, *Consent Awards in International Arbitration: From Settlement to Enforcement*, 40 BROOK. J. INT'L L. 827 (2015).

This article argues that it remains for an arbitral tribunal to decide whether it will record a settlement agreement as an arbitration award. It also examines consent awards as a cover for illegality, and discusses issues related to the enforceability of consent awards rendered as a result of mediation or alternative dispute resolution methods, which typically do not result in a binding decision.

{21} MEDIATION—GENERAL
{44} ARBITRATION—GENERAL
{60} ADR—GENERAL
{82} SUBJ MATTER: CRIMINAL
{122} SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Heather Scheiwe Kulp & Amanda L. Kool, *New Directions in Community Lawyering, Social Entrepreneurship, and Dispute Resolution: You Help Me,*

He Helps You Dispute Systems Design in the Sharing Economy, 48 WASH. U. J.L. & POL'Y 179 (2015).

This article explores the idea of collaborative consumption models (CCMs) or the sharing economy, and how attorneys can assist in managing conflicts that undeniably arise. The author proposes a dispute systems design for conflict resolution in CCMs, where attorneys can mitigate the disputes based on the sharing economy's particular culture or structure.

{60} ADR—GENERAL
 {77} SUBJ MATTER: COMMUNITY
 {79} SUBJ MATTER: CONSUMER
 {136} ECONOMIC ADVANTAGES OF ADR

Avinash Kumar, *Arbitrability of Oppression and Mismanagement Petitions in India*, 36 STATUTE L. REV. 202 (2015).

This article evaluates ambiguities in India's Arbitration & Conciliation Act of 1996 and its Companies Act of 1956 that may result in confusion as to when a case pertaining to oppression and mismanagement is arbitral and when it is not.

{44} ARBITRATION—GENERAL
 {92} SUBJ MATTER: INT'L
 {144} LEGISLATION

Avnita Lakhani, *David Versus Goliath and Multilateral Diplomatic Negotiations in the 21st Century: How the Greek Debt Crisis Negotiations Marked the Revenge of Goliath*, 24 CARDOZO J. INT'L & COMP. L. 97 (2015).

This article analyzes the manner that negotiations pertaining to the Greek debt crisis were conducted and examines whether there are lessons to be learned in terms of effective negotiation techniques. The article also looks to answer whether the recently-announced agreement between the European Union Council members to support a three-year European Stability Mechanism program for Greece has any prospects for success.

{1} NEGOTIATION—GENERAL
 {92} SUBJ MATTER: INT'L

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M. A. Langager, *The House the Court Built: A Tour of Mandatory Employment Arbitration with an International Comparison*, 19 LEWIS & CLARK L. REV. 497 (2015).

The expanding judicial interpretation of the Federal Arbitration Act has resulted in an increase in the amount of employee grievances in the courts. The author argues that the problems caused by this increase in filings should be addressed by the legislature, who can consult the experts necessary to create a congressionally approved ADR system. The author also analyzes international labor tribunals to assess employer-employee dispute resolution processes around the world.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
{93} SUBJ MATTER: LABOR—GENERAL
{133} COURT REFORMS

Dafna Lavi, *No More Click? Click in Here: E-Mediation in Divorce Disputes—The Reality and the Desirable*, 16 CARDOZO J. CONFLICT. RESOL. 479 (2015).

This article surveys the development and use of e-mediation in the field of divorce disputes. The author also suggests improvements to the e-mediation process to better serve people who are likely experiencing a traumatic and emotional event as well as regulations and methods of supervision to ensure that e-mediation is performing satisfactorily.

{53} COLLABORATIVE LAW—GENERAL
{78} SUBJ MATTER: COMPUTER
{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

Dafna Lavi, *Till Death Do Us Part?!: Online Mediation as an Answer to Divorce Cases Involving Violence*, 16 N.C. J.L. & TECH. 253 (2015).

This article acknowledges the reality that many divorces involve an element of violence and explores online mediation as a way to avoid some of the disadvantages of in-person mediation for parties of a violent divorce case. The author also provides suggestions for the application of e-mediation in divorce cases.

{53} COLLABORATIVE LAW—GENERAL
{78} SUBJ MATTER: COMPUTER

{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

Timothy P. Law & Lisa A. Szymanski, *Reserving the Right to Contest Coverage Under the Proposed Restatement of the Law of Liability Insurance*, 68 RUTGERS U. L. REV. 29 (2015).

This article examines Section 15 of the American Law Institute's proposed Restatement of the Law of Liability Insurance, which addresses an insurance company's reservation of rights to contest coverage. Specifically, the author explores how Section 15 interacts with the other sections and how it reflects and advances the trends of the common law.

{53} COLLABORATIVE LAW—GENERAL

{91} SUBJ MATTER: INSURANCE

{121} SETTLEMENT: AUTHORITY

Matthew J.B. Lawrence, *Mandatory Process*, 90 IND. L.J. 1429 (2015).

This article argues that the “inherent, outcome-independent value of participating in a dispute resolution” comes from the power of the dispute resolution process to soothe a person's grievance when it occurs. The author confronts the idea of projection bias when designing legal rules and implications that arise from the bias. The article also looks at potential implications of the behavioral approach to understanding the value of process and determining when it should be mandatory.

{60} ADR—GENERAL

{73} SUBJ MATTER: GENERAL

{146} ORGANIZATION POLICIES & RULES

Dennis Lazarev, *Dispute Resolution Clauses in International Sponsored Research Contracts*, 16 CARDOZO J. CONFLICT RESOL. 585 (2015).

The article argues that arbitration is a far better approach than litigation for disputes arising between research institutions or between universities and pharmaceutical companies. These parties often do business together but rarely incorporate dispute resolution clauses into their contracts. This article also examines other dispute resolution mechanisms available for these cross-border contracts and suggests that arbitration is the optimal choice for reaching an enforceable outcome.

{44} ARBITRATION—GENERAL

{73} SUBJ MATTER: GENERAL

{105} SUBJ MATTER: SCIENCE & TECHNOLOGY

John Lee, *Resolving Concerns of Treaty Shopping in International Investment Arbitration*, 6 J. INT. DISP. SETTLEMENT 355 (2015).

This article addresses the problem of companies incorporating in countries with favorable laws, causing potential abuses to the arbitration process and addresses solutions to mitigate the problem of “treaty shopping.”

{44} ARBITRATION—GENERAL

{81} SUBJ MATTER: CORPORATE

{92} SUBJ MATTER: INT’L

Josephine Lee, *California Consumer Contracts After AT&T Mobility v. Concepcion*, 15 U.C. DAVIS BUS. L.J. 219 (2015).

This article analyzes the extent to which the decisions in *AT&T Mobility v. Concepcion* and *American Express Co. v. Italian Colors Restaurant* (“Amex”) affected California’s consumers and businesses as well as its lower courts. The author explores how these decisions continue to have substantial impacts on consumer contracting in California and the analysis of arbitration clauses in contracts.

{44} ARBITRATION—GENERAL

{79} SUBJ MATTER: CONSUMER

{122} SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Amnon Lehavi, *Unbundling Harmonization: Public Versus Private Law Strategies to Globalize Property*, 15 CHI. J. INT’L L. 452 (2015).

This article addresses international arbitration used in creating, allocating, and enforcing property rights. For property to function well in creating, allocating, and enforcing in rem rights across borders, the legal framework must establish a broad-based understanding among otherwise diverse audiences across borders about how legal interests in property are structured and prioritized in cases of conflict.

{44} ARBITRATION—GENERAL

{92} SUBJ MATTER: INT’L

Alessandra Lehmen, *The Case for the Creation of an International Environmental Court: Non-State Actors and International Environmental Dispute Resolution*, 26 Colo. Nat. Res. Energy & Envtl. L. Rev. 179 (2015).

This article discusses the changes to global governance including instruments such as treaties and international organizations. Inquiring on these changes and their impact to the international environmental protection, this article looks at international alternative dispute resolution processes and identifies the best characteristics that should be replicated in an international environmental court.

{60} ADR—GENERAL

{84} SUBJ MATTER: ENVIRON.

{92} SUBJ MATTER: INT'L

Jayme Lehman, *One Quest for Eleven Distinct Wine Regions: How Implementing Mediation Would Benefit the AVA Creation Process*, 15 PEPP. DISP. RESOL. L.J. 133 (2015).

This article proposes that introducing both an "intent to petition" stage, as well as mediation during the early phases of the American Viticultural Area petitioning process will streamline the process and more easily address concerns that opposed parties bring up. This article addresses the petition process and its pitfalls and provides a recommendation regarding changes that can be made to improve the system.

{21} MEDIATION—GENERAL

{86} SUBJ MATTER: FARM

{104} SUBJ MATTER: REGULATORY

Mark A. Lemley & Christopher R. Leslie, *Antitrust Arbitration and Illinois Brick*, 100 IOWA L. REV. 2115 (2015).

This article describes the evolution of policy centered on the Supreme Court's decision in *Illinois Brick Co. v. Illinois*. Although the decision was originally intended to encourage direct purchasers to bring anti-trust claims, today it is more difficult to bring those claims. The article argues that the advancement of arbitration may be responsible in bringing about this change.

{44} ARBITRATION—GENERAL

{74} SUBJ MATTER: ANTITRUST

Mark A. Lemley & Christopher R. Leslie, *Antitrust Arbitration and Merger Approval*, 110 NW. U.L. REV. 1 (2015).

This article discusses the arbitration of antitrust claims. It begins by detailing why antitrust claims were first thought not to be arbitrable. It also explains the problems with mandatory arbitration of antitrust claims. The article gives suggestions on how antitrust authorities can “address the problem proliferating arbitration clauses.”

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
{74} SUBJ MATTER: ANTITRUST

Rita Lenane, *“It Doesn’t Seem Very Fair, Because We Were Here First”: Resolving the Sioux Nation Black Hills Land Dispute and the Potential for Restorative Justice to Facilitate Government-to-Government Negotiations*, 16 CARDOZO J. CONFLICT. RESOL. 651 (2015).

The land dispute between the Lakota Sioux and the U.S. Government that went all the way to the Supreme Court highlights the need for a reliable alternative method of dispute resolution to reinvigorate peaceful and productive negotiations between Native American nations and the U.S. government. The author suggests that a negotiation process centered on restorative justice, rather than extensive litigation, is the best way to move these disputes forward.

{1} NEGOTIATION—GENERAL
{87} SUBJ MATTER: GOV’T
{133} COURT REFORMS

Christopher R. Leslie, *The Arbitration Bootstrap*, 94 TEX. L. REV. 265 (2015).

This article discusses the recent rise of arbitration agreements in consumer and employment contracts. The author discusses the subsequent prevalence of companies adding unrelated terms to mandatory arbitration clauses in the hopes that judges will be more likely to enforce terms embedded in arbitration clauses. The author calls this practice bootstrapping.

{44} ARBITRATION—GENERAL
{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
{79} SUBJ MATTER: CONSUMER
{95} SUBJ MATTER: LABOR—MANAGEMENT (UNION)

John K. Lisman, *Arbitration Agreement Arbitrage?: Statutory Discrepancy Leads to Third Circuit Victory for Dodd-Frank Whistleblower Defendants in Khazin v. TD Ameritrade Holding Corp.*, 60 VILL. L. REV. 753 (2015).

This article analyzes the Third Circuit's groundbreaking decision in *Khazin v. TD Ameritrade Holding Corp.*, and discusses its effect on defendants and practitioners involved in whistleblower litigation. While the article interprets this decision as a victory for defendants, it also provides insight into ways plaintiffs can still effectively plan to avoid arbitration agreements. The author proposes that defendants employ arbitration agreements and recommends that plaintiffs consider approaching their whistleblower claims differently.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
{96} EMPLOYMENT (NON-UNION)
{128} REQUIREMENTS: CONTRACTUAL CLAUSES

Angela Littwin, *Why Process Complaints? Then and Now*, 87 TEMP. L. REV. 895 (2015).

This article analyzes the success of the Consumer Financial Protection Bureau (CFPB) in providing an alternative dispute resolution process. The author uses the insights of Whitford and Kimball who previously performed a case study on whether a government agency process could act as a low-cost, low-barrier alternative to litigation. The data in the article suggests that the CFPB has mixed success.

{60} ADR—GENERAL
{79} SUBJ MATTER: CONSUMER
{121} SETTLEMENT: AUTHORITY

Chuyang Liu, *Navigating Med-Arb in China*, 17 U. PA. J. BUS. L. 1295 (2015).

In order to effectively do business in China, counsel must understand and utilize med-arb (a combination of mediation and arbitration in which the mediator and arbitrator are the same person). This article focuses on the use of med-arb in the Beijing Arbitration Commission as an example of how foreign parties can understand the advantages and disadvantages of China's med-arb process.

{44} ARBITRATION—GENERAL
{73} SUBJ MATTER: GENERAL

{124} COMPARISONS: CROSS-CULTURAL

Lewis D. Lowenfels & Michael J. Sullivan, *SEC Policy Change Re Settlements With Admissions of Wrongdoing*, 68 SMU L. REV. 795 (2015).

For a long time, the SEC allowed defendants to settle without admitting wrongdoing. The SEC recently revised its policy to require that those settling in an SEC case under certain circumstances must admit wrongdoing. This has been influenced by recent judicial rulings. The author examines the implications of this change in policy, and notes that the SEC appears to be following Judge Rakoff's position.

{53} COLLABORATIVE LAW—GENERAL

{104} SUBJ MATTER: REGULATORY

{121} SETTLEMENT: AUTHORITY

Fernando Vieira Luiz, *Designing a Court-Annexed Mediation Program for Civil Cases in Brazil: Challenges and Opportunities*, 15 PEPP. DISP. RESOL. L.J. 1 (2015).

This article demonstrates that mediation is an important form of dispute resolution, displaying benefits when compared with adjudication. It attempts to refine what mediation is by contrasting it with judicial settlement conferences and conciliation. The author argues that every society should have a mediation system that is adapted to their specific needs. Specifically, the author focuses on the positives and negatives of a Resolution No. 125 in Brazil.

{21} MEDIATION—GENERAL

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL

{92} SUBJ MATTER: INT'L

Mary Elizabeth Lund, *The Place for Custody Evaluations in Family Peacemaking*, 53 Fam. Ct. Rev. 407 (2015).

This article explains the positive role of custody evaluations in settling divorce disputes. The author argues that custody evaluations provide neutral objective information to the court and help to allow earlier settlement. According to research most cases settle after custody evaluations. The author encourages the expansion and further development of these custody evaluations because they can better keep in mind the interests of families and children.

- {60} ADR—GENERAL
- {53} COLLABORATIVE LAW—GENERAL
- {73} SUBJ MATTER: GENERAL
- {85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

Robert N. Mace, *Deference, Clarity, and the Future of Arbitration in Investor-State Dispute Settlements*, 2015 J. DISP. RESOL. 221 (2015).

This article provides an overview of the Supreme Court decision in *BG Group v. Republic of Argentina*. The case dealt with bilateral investment treaties created by nations to overcome obstacles in doing business with one another. The Supreme Court, in this case, held that the “arbitration agreements in investment treaties are to be evaluated and enforced under traditional contract theories.” The author suggests that this ruling shows that the Court wants to keep arbitration as effective and independent way to handle disputes.

- {44} ARBITRATION—GENERAL
- {87} SUBJ MATTER: GOV'T
- {125} COMPARISONS: HISTORICAL

Bernadette Maheandiran, *Calling for Clarity: How Uncertainty Undermines the Legitimacy of the Dispute Resolution System under the OECD Guidelines for Multinational Enterprises*, 20 HARV. NEGOT. L. REV. 205 (2015).

This article discusses the Organization for Economic Co-operation and Development's Guidelines for Multinational Enterprises. The grievance mechanism contained in the Guidelines is expected to facilitate the resolution of disputes between corporations and individuals alleging corporate wrongdoing. The article is a critique of the Guidelines' lack of clarity. This article also posits that this confusion affects the legitimacy and, therefore, limits the promise of the system of dispute resolution.

- {53} ADR— GENERAL
- {81} SUBJ MATTER: CORPORATE
- {146} ORGANIZATION POLICIES & RULES

Suleman Malik, *Where Do We Fight?: A Way to Resolve the Conflict Between a Forum Selection Clause and FINRA Arbitration Rule 12200*, 17 CARDOZO J. CONFLICT RESOL. 215 (2015).

This article presents an overview of the history of the Financial Industry Regulatory Agency (FINRA) and the circuit split over the interpretation of whether a forum selection clause takes precedence over FINRA mandated arbitration. The author suggests that FINRA's mandatory arbitration rule supersedes forum selection clauses based upon an extended analysis of Rule 12200.

{44} ARBITRATION—GENERAL
 {106} SUBJ MATTER: SECURITIES
 {125} COMPARISONS: HISTORICAL
 {127} REQUIREMENTS: MANDATE TO USE

Kim V. Marrkand, *Duty to Settle: Why Proposed Sections 24 and 27 Have No Place in a Restatement of the Law of Liability Insurance*, 68 RUTGERS L. REV. 201 (2015).

The proposed restatement on the law of liability insurance originally began as the American Law Institute's project to develop the Principles of the Law of Liability Insurance. The author stresses the significance of this change. Instead of stating what the law should be, the author explains that a restatement restricts the American Law Institute into describing what the law is. The author points out flaws in the restatement's proposals, specifically in sections 24 and 27.

{1} NEGOTIATION—GENERAL
 {91} SUBJ MATTER: INSURANCE
 {147} POWER IMBALANCE

Cecilia Pérez Martínez, *Where Will the Case Be Heard? Which is the Applicable Law? Approach to Selected Problems of Transnational Employment Relationships*, 5 AM. U. LAB. & EMP. L.F. 5 (2015).

This article looks to ADR and wonders if it is the solution to Spanish-U.S. transnational employment disputes. In the international context, Spanish labor and employment legislation is scarce. ADR has not been one of the topics addressed by such legislation. Furthermore, the current ADR legislation in the employment arena is designed with the domestic dispute in mind, not international.

{60} ADR—GENERAL
 {92} SUBJ MATTER: INT'L

{93} SUBJ MATTER: LABOR—GENERAL

Leo P. Martinez, *The Restatement of the Law of Liability Insurance and the Duty to Settle*, 68 RUTGERS L. REV. 155 (2015).

The duty to settle is both a complex subject and unsettled law. Given the proposed Restatement of the Law of Liability Insurance, the author examines the possible effects on state substantive law once the law regarding the insurer's duty to settle becomes more comprehensive.

{1} NEGOTIATION—GENERAL

{91} SUBJ MATTER: INSURANCE

{121} SETTLEMENT: AUTHORITY

Jeffrey A. Marx, *The Role of Western Religious Values in Peacemaking for Divorcing Families*, 53 FAM. CT. REV. 388 (2015).

This article examines the use of religious values in settling divorce disputes. More specifically, the author argues that appealing to the religious values of “community”, “humanity in the divine image”, “love”, and “the fullness of time” can be useful in helping the couples explain their emotions. Additionally, the use of “sin and atonement” can further the role of restorative justice.

{60} ADR—GENERAL

{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

{73} SUBJ MATTER: GENERAL

{124} COMPARISONS: CROSS-CULTURAL

Sophie B. Mashburn, *“Throwing the Baby Out with the Bathwater”: Parenting Coordination and Pennsylvania’s Decision to Eliminate its Use*, 2015 J. DISP. RESOL. 191 (2015).

This article discusses the relatively new, alternative dispute resolution (ADR) practice of parenting coordination used by courts. It examines the development of parenting coordination, and also comments on the effect of a recent Pennsylvania Supreme Court ruling, which prohibited the practice.

{60} ADR—GENERAL

{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

Nicky McWilliam, Olav Nielssen & Jane Moore, *Sorting it Out: A Community Mediation Training Program at a Therapeutic Prison*, 37 SYDNEY L. REV. 69 (2015).

This article describes a pilot study that was conducted to see how feasible a community mediation program would be in therapeutic prisons. Within the study, both staff and inmates were trained together, and the program focused on preventing future conflicts. The author examines the findings from the study and concludes that the program was feasible and also benefited many participants.

{21} MEDIATION—GENERAL
{100} SUBJ MATTER: PRISONS

Tamar Meshel, “Commercial Peacemaking”—*The New Role of the International Commercial Arbitration Legal Order*, 16 CARDOZO J. CONFLICT RESOL. 395 (2015).

The author assigns a “commercial peacemaking” role to international commercial arbitration (ICA) that stems from two rationales. First, the ICA could provide a mechanism to remove the informal trade barrier created by the inability to resolve disputes between rival states. Second, increased trade would encourage political cooperation between states and help resolve border conflicts. The author also applies the new role of the ICA legal order to several real-world international disputes.

{44} ARBITRATION—GENERAL
{75} SUBJ MATTER: COMMERCIAL
{92} SUBJ MATTER: INT’L

Forrest S. Mosten, *Peacemaking for Divorcing Families: Editor’s Introduction*, 53 FAM. CT. REV. 357 (2015).

This article advocates for reforms to the divorce mediation process that focuses more on peacemaking instead of formal mediation. The author describes the different points of view regarding peacemaking and offers a way to adapt peacemaking into work with families.

{21} MEDIATION—GENERAL
{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

Elizabeth Moul, *The International Centre for the Settlement of Investment Disputes and the Developing World: Creating a Mutual Confidence in the International Investment Regime*, 55 SANTA CLARA L. REV. 881 (2015).

This article describes the structure and purpose of the International Centre for the Settlement of Investment Disputes and discusses the inherent flaws within the current international investment process. The author criticizes the unequal international investment regime for the creation of lopsided investment agreements that are enforced by a partial arbitration process. The article concludes with proposal of improvements to help eliminate bias towards corporate investors and provides an impartial system for the settlement of investment disputes.

{44} ARBITRATION—GENERAL
{92} INTERNATIONAL
{147} POWER IMBALANCE

Alexis Mouree, *Gas Price Reopeners: Is Arbitration Still the Answer?*, 9 DISP. RESOL. INTERNATIONAL 139 (2015).

This article describes the intricacies of using arbitration to resolve gas price disputes. The Author also discusses the recent complexities of factors such as: the 2008 oil crisis, the rise of shale gas, and the constant changes in oil prices. The author points out a few flaws with how arbitration tribunals have analyzed these factors, but overall, the author suggests that arbitration is still the preferred method for handling gas price disputes.

{44} ARBITRATION— GENERAL
{84} SUBJ MATTER: ENVIRONMENT
{87} SUBJ MATTER: GOV'T
{136} ECONOMIC ADVANTAGES OF ADR

Diane Myers, *Smoothing the Fair Labor Standards Act: How Offers of Judgment are Eliminating the FLSA Collective Action*, 53 HOUSTON L. REV. 303 (2015).

This article analyzes the United States Supreme Court's decision in *Genesis Healthcorp. v. Symczyk* and discusses the current state of offers of judgment among the Circuit Courts. The author proposes three distinct arguments against allowing offers of judgment to moot claims and concludes by

presenting two main solutions to this issue, namely an amendment to Civil Rule 68 and a resolution of the circuit split by the Supreme Court.

{53} COLLABORATIVE LAW—GENERAL
 {73} SUBJ MATTER: GENERAL
 {93} SUBJ MATTER: LABOR — GENERAL
 {133} COURT REFORMS
 {144} LEGISLATION

William A. Nelson II, *Take It or Leave It: Unconscionability of Mandatory Pre-Dispute Arbitration Agreements in the Securities Industry*, 17 U. PA. J. BUS. L. 573 (2015).

This article analyzes the jurisprudence of the use of mandatory pre-dispute arbitration agreements (PDAAs) in the securities industry. The author argues that PDAAs are unconscionable because they require the waiver of constitutional rights and effectively bar the judicial review of arbitral awards. Finally, the author concludes that policy-makers should consider the prohibition of the use of mandatory PDAAs in this industry.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
 {106} SUBJ MATTER: SECURITIES
 {138} ETHICS: GENERAL

Ronald J. Nessim & Scott Goldman, *Mandatory Arbitration Provisions Involving Talent and Studios and Proposed Areas for Improvement*, 22 UCLA ENT. L. REV. 233 (2015).

This article moves to catalyze a sharing of information and a dialogue in which the providers, arbitrators, the major studios and talent can participate. It discusses how the arbitrator selection process can favor the studios. The article explains why litigation challenges to arbitration provisions in talent-studio agreements are challenging at best under the current case law and propose improvements to the current system for the benefit of all.

{45} ARB: MANDATORY, COURT-ANNEXED— GENERAL
 {107} SUBJ MATTER: SPORTS & ENTERTAINMENT

Kevin Neumar, *Arbitration Agreements or Forum Selection Clauses Involving FINRA Members: Circuit Split Creates Confusion, Increases Investor Skepticism*, 17 DUQ. BUS. L.J. 289 (2015).

This article lays out the history of the Financial Industry Regulatory Agency (FINRA) and the arbitration proceedings that it oversees. Further, the author analyzes the circuit split over the interpretation of whether a forum selection clause takes precedence over FINRA mandated arbitration and suggests that the legislature should respond to this issue with an amendment to the Social Security Act of 1934.

{44} ARBITRATION—GENERAL
{106} SUBJ MATTER: SECURITIES
{125} COMPARISONS: HISTORICAL

Wesley MacNeil Oliver & Rishi Batra, *Standards of Legitimacy in Criminal Negotiations*, 20 HARV. NEGOT. L. REV. 61 (2015).

This article suggests that defense lawyers in criminal negotiations can employ tools frequently useful to negotiators in other arenas: neutral criteria as a standard of legitimacy. In negotiations, defense lawyers can use guidelines offered by judges as a soft limitation on the largely unchecked power of prosecutors. Judges have been reluctant to exercise the power assigned to them, and lawyers have been slow to recognize the value of this guidance.

{1} NEGOTIATION—GENERAL
{82} SUBJ MATTER: CRIMINAL

Congressman William L. Owens (NY-21) & R. Andrew Fitzpatrick, *Investment Arbitration Under Nafta Chapter 11: A Threat to Sovereignty of Member States?*, 39 CAN.-U.S. L.J. 55 (2015).

This article evaluates Chapter 11 (which aims to create a fair and predictable framework to allow for expanded flows of cross-border investment) arbitration results. It concludes that while developing nations like Mexico are undoubtedly conflicted in their willingness to accept investor-state dispute settlement, (“ISDS”) agreements, participation by all three North American Free Trade Agreement (“NAFTA”) countries in this mechanism can lessen the political risk for foreign investment and attract much-needed outside capital in order to spur economic activity.

{44} ARBITRATION—GENERAL
{75} SUBJ MATTER: COMMERCIAL
{87} SUBJ MATTER: GOV’T

{92} SUBJ MATTER: INT'L

Brian A. Pappas, *Med-Arb and the Legalization of Alternative Dispute Resolution*, 20 HARV. NEGOT. L. REV. 157 (2015).

Med-Arb is a dispute resolution process that combines mediation and arbitration. Med-Arb practitioners offer a process that guarantees a final resolution but incorporates informal opportunities for settlement. Med-Arb is perceived as one way to correct the adversarial disadvantages of each by providing for both “finality” and “flexibility.” This article argues that separating the processes and utilizing different neutrals is the ideal way to gain the benefits without compromising core values.

{53} ADR—GENERAL

{146} ORGANIZATION POLICIES & RULES

Audra J. Passinault, *A Prescription For The Future: Reverse-Payment Settlements In The Wake of FTC v. Actavis Pharmaceuticals*, 29 ND J. L. ETHICS & PUB. POL'Y 549 (2015).

This article discusses the effects of “pay-for-delay settlements” when pharmaceutical companies pay generic pharmaceutical companies to back off their patent lawsuits. By doing this the large pharmaceutical companies effectively delay the entry of the lower-priced generic products. The article gives a summarization of the cases and how the Federal Trade Commissions is looking at these prescription drug battles.

{53} COLLABORATIVE LAW—GENERAL

{104} SUBJ MATTER: REGULATORY

D Robert D. Peltz, *Buffering the Collision Between the Historical Protections for Seamen and the Increasing Use of International Arbitration Agreements*, 40 TUL. MAR. L.J. 1 (2015).

This article analyzes the various maritime remedies in the current alternative dispute methods available to seamen and their disputes. The analysis will look at the attack on seamen’s rights and look to U.S. arbitration proceedings application of current maritime policy.

{44} ARBITRATION—GENERAL

{97} MARITIME

Carson D. Phillips-Spotts, *Exhausted Yet? Stephens v. Pension Benefit Guaranty Corporation and the Application of the Exhaustion Doctrine to Statute Based ERISA Claims*, 67 ME. L. REV. 378 (2015).

This article examines disputes arising under ERISA. Under the Act, Congress required that providers establish administrative procedures through which people may seek redress in case of a dispute. This article examines that conflicting nature between these administrative procedures and court access.

{60} ADR—GENERAL

{87} SUBJ MATTER: GOV'T

{128} REQUIREMENTS: STATUTORY OR RULES

Amanda Pitrof, *Too Many Cooks in the Kitchen: Examining the Major Obstacles to Achieving Peace in Syria's Civil War*, 15 PEPP. DISP. RESOL. L.J. 157 (2015).

This article addresses the use of mediation and negotiation as a means of avoiding or ending armed conflict in Syria. It notes that mediation is preferred but comes with its own set of problems. Problem # 1: Are negotiations even likely to bring peace? Problem # 2: Who should be at the table? Problem # 3: The fractured nature of the opposition movement. Problem # 4: Influence of international interests. Problem # 5: Public scrutiny elevating the stakes.

{21} MEDIATION—GENERAL

{92} SUBJ MATTER: INT'L

{114} 3D PARTY: PRACTICE OF LAW

{124} COMPARISONS: CROSS-CULTURAL

Benjamin Pomerance, *Arbitration Over Accountability? The State of Mandatory Arbitration Clauses in Nursing Home Admission Contracts*, 16 FL. COASTAL L. REV. 153 (2015).

This article examines recent case law concerning the possible unconscionability of mandatory arbitration clauses in nursing home admission contracts. Though these cases seem to be contradictory and unstructured, the author concludes that there are trends to when nursing home admission contracts should be found unconscionable and therefore unenforceable.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL

{89} SUBJ MATTER: HOSPITALS

{138} ETHICS: GENERAL

Liza Ponomarenko, *Standardizing Gap-Filling Arbitration Cases: Untangling The Supreme Court Opinions in Stolt-Nielsen v. Animalfeeds*, 95 B.U. L. REV. 1719 (2015).

This note provides a way for professionals in the ADR field to separate and understand the reasoning found in the *Stolt-Nielsen* opinions, for the goal of more predictable arbitration contracts. It explores the enforceability of international arbitral awards in the United States, as well as the cases that have informed international commercial dispute arbitration doctrines. It also discusses the role of contracts that contain or do not contain arbitration clauses, and distinguishes situations in which gap-filling results in arbitrators constructing contracts.

{44} ARBITRATION—GENERAL

{75} SUBJ MATTER: COMMERCIAL

{92} SUBJ MATTER: INT'L

George Pring & Catherine Pring, *Twenty-First Century Environmental Dispute Resolution—Is there an ECT in your Future?*, 33 JERL 10 (2015).

This article assesses the recent boom in Environmental Courts and Tribunals (ECT's) throughout the world, and the ECT's heavy reliance upon alternative dispute resolution (ADR) mechanisms. The article explains the factors that make ADR-dependent ECT's preferable in regions for its cost-effectiveness and reduced hostility.

{53} COLLABORATIVE LAW—GENERAL

{84} SUBJ MATTER: ENVIRONMENT

{124} COMPARISONS: CROSS-CULTURAL

Orna Rabinovich-Einy, *The Legitimacy Crisis and the Future of Courts*, 17 CARDOZO J. CONFLICT RESOL. 23 (2015).

Using the framework of the emerging field of “dispute systems design,” this article develops a framework for legitimacy for the court system in a world of alternative dispute resolution. The author utilizes case studies to analyze how dispute systems design can be used to make more efficient dispute systems that will lend legitimacy to both formal and informal court proceedings.

{60} ADR—GENERAL
{73} SUBJ MATTER: GENERAL
{133} COURT REFORMS

Carlos Ragazzo & Mariana Binder, *Antitrust and International Arbitration*, 15 U.C. DAVIS BUS. L.J. 173 (2015).

This article explores the debate over the public policy involved with the arbitrability of competition claims as well as the practical considerations that result from this debate. Further, the author analyzes the arbitrability of antitrust claims from the standpoint of the interparty relations and their consent in order to assess the Arbitration Fairness Act of 2013.

{44} ARBITRATION—GENERAL
{74} SUBJ MATTER: ANTITRUST
{92} SUBJ MATTER: INT’L

John Rappaport, *Unbundling Criminal Trial Rights*, 82 U. CHI. L. REV. 181 (2015).

There is a common perception that criminal defendants must choose all or nothing with their trial rights, meaning that they must either plea bargain or go to trial. The author argues that criminal defendants should be able to make small concessions. The author argues cautiously in favor of this situation.

{53} COLLABORATIVE LAW—GENERAL
{82} SUBJ MATTER: CRIMINAL

Anjanette H. Raymond & Abbey Stemler, *Trusting Strangers: Dispute Resolution in the Crowd*, 16 CARDOZO J. CONFLICT. RESOL. 357 (2015).

This article encourages the use of online dispute resolution (ODR) for disputes involving crowdfunding platforms, like Kickstarter, and to assist in donor loss recovery. The author argues that the community, the crowd in crowdfunding, should resolve internal disputes based on their own standards of acceptable behaviors, supported by an ODR platform that will increase consumer trust in the system and therefore increased donations.

{60} ADR—GENERAL
{77} SUBJ MATTER: COMMUNITY

{78} SUBJ MATTER: COMPUTER

Norbert Reich, *Party Autonomy and Consumer Arbitration in Conflict: A "Trojan Horse" in the Access to Justice in the E.U. ADR-Directive 2013/11?*, 4 PENN. ST. J.L. & INT'L AFF. 290 (2015).

This article addresses the controversy surrounding mandatory arbitration clauses in consumer contracts. It looks to the European Union, who although originally excluded arbitration clauses, are now indirectly encouraging the development of consumer arbitration schemes in E.U. Member States as a second route to justice. The paper seeks to provide some guidelines for this coming debate.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL

{79} SUBJ MATTER: CONSUMER

{92} SUBJ MATTER: INT'L

{124} COMPARISONS: CROSS-CULTURAL

{126} REQUIREMENTS: CONTRACTUAL CLAUSES

Dana A. Remus & Adam S. Zimmerman, *The Corporate Settlement Mill*, 101 VA. L. REV. 129 (2015).

The authors of this article dive into the world of corporate settlement. Within this article they focus on how corporations have begun to rely on their own settlement programs that are not completely within the scope of the civil litigation system. Corporations choose their settlement programs for groups of people who cannot afford counsel. However, the current system is not effective enough to hold companies accountable. The authors explore the possible inclusion of an array of dispute resolution themes that could assist in solving this problem such as: mediation, arbitration, and negotiation.

{60} ADR—GENERAL

{81} SUBJ MATTER: CORPORATE

{147} POWER IMBALANCE

Judith Resnik, *The Contingency of Openness in Courts: Changing the Experiences and Logics of the Public's Role in Court-Based ADR*, 15 NEV. L.J. 1631 (2015).

This article explores the centrality of "open courts" to judicial legitimacy and asserts that court-based arbitration and court-based settlement programs

should be regulated to reflect the constitutional obligations to provide a role for the public. This article states that courts have promulgated hundreds of rules governing ADR, and those rules rarely protect rights of the public to know much about the process, encouraging parties to conclude disputes without adjudication.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
 {73} SUBJ MATTER: GENERAL
 {104} SUBJ MATTER: REGULATORY
 {133} COURT REFORMS

Judith Resnik, *Arbitration, Transparency, And Privatization: Diffusing Disputes: The Public in the Private of Arbitration, the Private in Courts, and the Erasure of Rights*, 124 YALE L.J. 2804 (2015).

Within this article, the author examines the Federal Arbitration Act. She focuses on the intentions behind the Act when it was passed and the current application of the Act. The article focuses on the growth of arbitration as the method for public contracts. However, while many contracts contain arbitration clauses those clauses the cases that come out of those cases channel through private alternative adjudicators. Based on this structure, the public has not been given adequate protection required for arbitration. Thus, these arbitrations lack legitimacy and have become an unconstitutional system.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
 {126} REQUIREMENTS: CONTRACTUAL CLAUSES
 {128} REQUIREMENTS: STATUTORY OR RULES

Jennifer W. Reynolds, *Breaking BATNAS: Negotiation Lessons from Walter White*, 45 N.M.L. REV. 611 (2015).

This article analyzes five negotiations that were presented in the hit show *Breaking Bad*. This article provides an analysis of how these negotiation methods “demonstrate and/or disrupt foundational negotiation concepts or skills.” The article concludes by providing the ethical implications of putting these negotiation methods into practice.

{1} NEGOTIATION—GENERAL
 {73} SUBJ MATTER: GENERAL
 {138} ETHICS: GENERAL

Willy E. Rice, *Courts Gone “Irrationally Biased” in Favor of the Federal Arbitration Act?—Enforcing Arbitration Provisions in Standardized Applications and Marginalizing Consumer Protection, Antidiscrimination, and States’ Contract Laws: A 1925-2014 Legal and Empirical Analysis*, 6 WM. & MARY BUS. L. REV. 405 (2015).

This article discusses the decisions of the Supreme Court, which bolsters the Federal Arbitration Act. The article focuses on the common law nature of contracts, which generally does not consider standardized application forms to be contracts, including those that contain mandatory arbitration clauses. However, it further discusses the split between federal and state courts when enforcing arbitration clauses, because the former tends to enforce them, while the latter does not.

{44} ARBITRATION—GENERAL

{75} SUBJ MATTER: COMMERCIAL

{126} REQUIREMENTS: CONTRACTUAL CLAUSES

Leonard L. Riskin & Rachel Wohl, *Mindfulness in the Heat of Conflict: Taking STOCK*, 20 HARV. NEGOT. L. REV. 121 (2015).

This article argues that mindfulness can help overcome obstacles and improve decision-making in conflict-related situations. Mindfulness is difficult to establish and maintain, especially in proximity to conflict. To address this problem, this article sets forth three tools of awareness—called STOP, STOPSi, and Taking STOCK—that can quickly establish and sustain mindfulness and foster appropriate behavior in conflict-related situations.

{38} NON-BINDING RECOMMENDATION PROC—GENERAL

{73} SUBJ MATTER: GENERAL

{149} QUALITY CONTROL

Thomas E. Robins, *The Peculiar Case of the ARA Libertad: Provisional Measures and Prejudice to the Arbitral Tribunal's Final Result*, 20 HARV. NEGOT. L. REV. 265 (2015).

This article chronicles the story of the *ARA Libertad*, with an emphasis on the ITLOS provisional measures. In asserting its preeminence in deciding issues of the law of the sea, ITLOS superseded both the Ghanaian High Court and the arbitral tribunal. This article argues that in attempting to avoid prejudice

to the final result of the pending arbitration, ITLOS prejudiced the final result and rendered moot any effort at arbitration.

{44} ABITRATION—GENERAL
{92} SUBJ MATTER: INT'L

Nick Robinson, *Closing the Implementation Gap: Grievance Redress and India's Social Welfare Programs*, 53 COLUM. J. TRANSNAT'L L. 321 (2015).

This article addresses the grievance redress mechanisms for social welfare programs in the Indian states of Madhya Pradesh and Bihar. The author proposes a comparable set of grievance redress regimes that borrowed from the idea of accountability regimes developed in the administrative law literature. The majority of the article pinpoints the strengths and weaknesses of the specific grievance redress regimes and ensure that the mechanisms support each other.

{60} ADR—GENERAL
{92} SUBJ MATTER: INT'L
{124} COMPARISONS: CROSS-CULTURAL
{146} ORGANIZATION POLICIES & RULES

Clara María López Rodríguez, *Enforcing contracts and resolving disputes in contract farming: how ADR can address the specificities of agricultural production contracts*, UNIF. L. REV. (2015) 20(2-3), pp 180 (2015).

This article identifies the challenges related to contract farming. Then, the author argues that alternative dispute resolution (ADR) is the best solution for the specific problems presented within agricultural production contracts.

{60} ADR—GENERAL
{86} SUBJ MATTER: FARM

Jessica Rodriguez, *Enforcement of Annulled Arbitral Awards in the United States: Is a Return to Chromalloy Warranted?*, 34 REV. LITIG. 379 (2015).

This note discusses the law surrounding the enforcement of annulled arbitration awards and examines whether the trend of denying enforcement of annulled awards is the correct way to handle these types of cases. The author determines the current trend is wrong, and advocates returning to the approach seen in *In re Arbitration of Certain Controversies Between Chromalloy*

Aeroservices and Arab Republic of Egypt.

{44} ARBITRATION—GENERAL
 {92} SUBJ MATTER: INT'L
 {102} SUBJ MATTER: PUBLIC POLICY
 {124} COMPARISONS: CROSS-CULTURAL

Catherine A. Rogers, *International Arbitration, Judicial Education, and Legal Elites*, 2015 J. DISP. RESOL. 71 (2015).

This article covers investment and international arbitration. It offers an alternative viewpoint on the effects of investments arbitration on local legal intuitional development, specifically domestic courts. It provides information on how international commercial arbitration becomes integrated with domestic arbitration. The author's opinion is formed through the author's personal anecdotes and observations.

{44} ARBITRATION—GENERAL
 {75} SUBJ MATTER: COMMERCIAL
 {124} COMPARISONS: CROSS-CULTURAL

Fernanda S. Rossi, *Does Level of Intimate Partner Violence and Abuse Project the Content of Family Mediation Agreements?*, 53 FAM. CT. REV. 134 (2015).

This article summarizes the results of a study which investigated whether reported levels of intimate partner violence and/or abuse victimization are related to reaching agreement and to the content of mediation agreements of parties seeking to resolve family related issues. The results of the study indicate that mediation may be helpful to families with a history of violence and abuse to form arrangements that attend to their concerns. The study's findings led the author to propose several questions to be considered by parties who have experienced high levels of abuse and intimate partner violence, and provided some examples of possible future studies.

{21} MEDIATION—GENERAL
 {85} SUBJ MATTER: FAMILY (DOMESTIC REL.)
 {134} DISPUTE PREVENTION

David Marc Rothenberg, *Changing the Rule Changes the Game: A Rule 68 Offer for Complete Relief Should Never Moot an Individual's Claim*, 65 EMORY L.J. 155 (2015).

This article focuses on Federal Rules of Civil Procedure Rule 68, which encourages settlement. Some defendants have attempted to use this rule to moot opponents' claims by offering what they consider to be complete relief. The circuits are currently split on how to deal with this issue. However, the Supreme Court has granted certiorari to *Campbell-Ewald Co. v. Gomez* and the decision in this case should solve the circuit split. The author advocates for the Supreme Court to adopt the Ninth Circuit's holding that Federal Rules of Civil Procedure Rule 68 should not ever be used to moot another individual's claim.

{53} COLLABORATIVE LAW—GENERAL

{102} SUBJ MATTER: PUBLIC POLICY

{123} SETTLEMENT: PRESSURES TO SETTLE

Brittany N. Rudd, et. al., *Associations Between Parent and Child Reports of Interparental Conflict/Violence and Child Difficulties In A Family Mediation Setting*, 53 FAM. CT. REV. 602 (Oct. 2015).

This note summarizes a study done on family mediation setting, in regards to conflicts among parents and the parent-child conflicts that arise from the child's exposure to the initial conflict. The author looks into the different parent-child conflicts that occur in the family mediation setting. It explores the relation between the parents and children's reports of interparental conflicts and the corresponding child difficulties in the 'family mediation setting. The study results suggest that parents may not agree with each other or with the child about important family issues, such as parent conflict and child difficulties. The results also illustrate that a parent may not understand how the child is being affected due to exposure to parental conflict/violence during custody negotiations.

{21} MEDIATION—GENERAL

{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

Michal Saliternik, *Reducing the Price of Peace: The Human Rights Responsibilities of Third-Party Facilitators*, 48 VAND. J. TRANSNAT'L L. 179 (2015).

This article discusses third-party facilitator roles in state and international organizations that act as mediators or peacekeepers to maintain justice in peace agreements. It also points out the difficulties of ensuring the protection of

human rights through these third-party peace negotiations. It describes the need for the third-party negotiators to have secondary roles as peace facilitators who work to ensure long-term justice. The author sidesteps third-party peace negotiators and facilitators to introduce a theory of sovereign authority, arguing governments should be responsible for ensuring compatibility of peace agreements with human rights. The article provides means for facilitators to translate their responsibilities to legal obligations, as demonstrated in justice examples, such as the current issue in Bosnia.

{1} NEGOTIATION—GENERAL

{92} SUBJ MATTER: INT'L

{76} SUBJ MATTER: CIVIL RIGHTS

{147} POWER IMBALANCE

Brett Schiff, *Copyright Alert System: Six-Strikes and Forced Arbitration Might Not Be The Answer*, 16 CARDOZO J. CONFLICT RESOL. 909 (2015).

The Copyright Alert System (“CAS”), established to deter and educate the people about copyright holder’s rights, utilizes mandatory arbitration as a method of allowing users of copyrighted material to defend themselves against accusations of illegal use. This note analyzes how CAS uses ADR now, and how it might implement other methods of ADR in the future to further deter misuse of copyrighted material in the future.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL

{78} SUBJ MATTER: COMPUTER

{107} SUBJ MATTER: SPORTS & ENTERTAINMENT

{134} DISPUTE PREVENTION

Terese M. Schireson, *The Ethical Lawyer-Client Arbitration Clause*, 37 TEMP. L. REV. 547 (2015).

This Comment argues that, prior to entering an agreement to arbitrate malpractice disputes, ethical considerations require explicit disclosure of the implications of arbitration. Furthermore, the formation of specialized legal malpractice arbitration boards would encourage a fair process. This Comment proposes that lawyers and courts follow the guidelines set forth in a recent Louisiana Supreme Court decision to ensure that clients give fully informed consent when signing arbitration clauses. This Comment further suggests that arbitration providers follow the approach taken by other industries and hire experts in the field of legal malpractice to arbitrate malpractice claims.

{44} ARBITRATION—GENERAL
{98} SUBJ MATTER: MEDICAL MALPRACTICE
{126} REQUIREMENTS: CONTRACTUAL CLAUSES
{139} ETHICS: MISREPRESENTATION & FAILURE TO DISCLOSE

Thomas Schultz, *Arbitral Decision-Making: Legal Realism and Law & Economics*, J INT. DISP. SETTLEMENT (2015) 6(2): 231-251 (2015).

This article discusses the means by which arbitrators of international disputes make decisions. The author argues that legal and extra-legal factors influence arbitrator decisions and also attempts to identify some of the important extra-legal factors present in international arbitrations.

{44} ARBITRATION—GENERAL
{92} SUBJ MATTER: INT’L

John L. Schwab, *The Vindication of Rights Doctrine: Still a Key to the Courtroom or Arbitration’s Latest Casualty?*, 15 U.C. DAVIS BUS. L.J. 243 (2015).

This article analyzes the Supreme Court’s holding in *American Express Co. v. Italian Colors Restaurant* (“Amex”) that overturned the ability of lower courts to use the vindication of rights doctrine to invalidate arbitration clauses that contained class-action waivers. The author argues that Amex, despite court confusion, is limited to challenges to class-action waivers and that federal courts may still nullify one-sided arbitration agreements under the vindication of rights doctrine.

{44} ARBITRATION—GENERAL
{79} SUBJ MATTER: CONSUMER
{122} SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Stephen M. Schwebel & Ruth Teitelbaum, *The Latest Award from the Iran-United States Claims Tribunal: The Line Between Approximation of Damages and Ruling ex Aequo et Bono*, 109 A.J.I.L. 369 (2015).

This article discusses the latest developments in the Iran—United States Claim Tribunal, which was established to make its way through nearly 4000 cases between the two states. The Tribunal hears claims and then issues a decision through its panel of arbitrators.

{44} ARBITRATION—GENERAL
{92} SUBJ MATTER: INT'L

Alexander Shapos, *Breaking the Impasse: A Two-Pronged Approach for Resolving Sovereign Debt Holdout Disputes*, 17 CARDOZO J. CONFLICT RESOL. 243 (2015).

A two-pronged approach is suggested in this article meant to prevent and resolve disputes involving sovereign debt holdouts. The first prong involves the inclusion of mandatory arbitration clauses in primary issues of indebtedness and the second prong involves negotiation to encourage more participation in debt restructurings.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
{92} SUBJ MATTER: INT'L
{106} SUBJ MATTER: SECURITIES

Yuval Sinai & Michal Alberstein, *Court Arbitration by Compromise: Rethinking Delaware's State Sponsored Arbitration Case*, 13 CARDOZO PUB. L. POL'Y & ETHICS J. 739 (2015).

This article addresses the fact that hybrid methods of judicial dispute resolution exist in many countries. In particular, the article addresses an interesting hybrid method used in Delaware: a state-sponsored arbitration program as an alternative to trial for resolving certain kinds of (business) disputes. The article suggests that the Third Circuit incorrectly ruled the Delaware method as unconstitutional because judicial discretion combines formal legal considerations with other considerations such as equity, peace, conflict resolution and social justice.

{44} ARBITRATION—GENERAL
{73} SUBJ MATTER: GENERAL
{87} SUBJ MATTER: GOV'T
{133} COURT REFORMS

William C. Sjoberg, *Ten Years of Mediation at the United States Court of International Trade: Perspectives of a Private Practitioner*, 23 TUL. J. INT'L & COMP. L. 451(2015).

This article looks to answer why mediation does not have a prominent role at the Court of International Trade (CIT). The article addresses whether there are types of cases over which the court has exclusive jurisdiction that are not amenable to mediation, whether the fact the United States is a party somehow acts to constrain mediation, and whether mediation at the court is only successful if it results in the settlement of all of the issues.

{21} MEDITATION—GENERAL

{92} SUBJ MATTER: INT'L

Tamara L. Slate, *Investor-State Arbitration and Domestic Environmental Protection*, 14 WASH. U. GLOBAL STUD. L. REV. 131 (2015).

Foreign investors can file claims against governments in an international arbitration forum, as long as the foreign investor is covered by an International Investment or Free Trade Agreement between the investor's home country and the host country that includes ISDS provisions. The article addresses numerous flaws in the international arbitration system that include its largely ad hoc structure, reliance on private firms and lawyers, and failure to successfully consider non-investment factors even when the trade agreement provides for the protection of human rights at issue.

{44} ARBITRATION—GENERAL

{84} SUBJ MATTER: ENVIRONMENT

{92} SUBJ MATTER: INT'L

Charisa Smith, *The Conundrum of Family Reunification: A Theoretical, Legal, And Practical Approach To Reunification Services For Parents With Mental Disabilities*, 26 STAN. L. & POL'Y REV. 307 (2015).

This article focuses on how collaborative family law could bring back “holistic family well-being” and that attorneys for all sides should use collaborative family law to meet this goal. By having higher levels of collaboration between and among public and private agencies would allow for more successful reunification services.

{53} COLLABORATIVE LAW—GENERAL

{85} SUBJ MATTER: FAMILY

BIBLIOGRAPHY ISSUE

Jeff Sovern et al., *'Whimsy Little Contracts' with Unexpected Consequences: An Empirical Analysis of Consumer Understanding of Arbitration Agreements*, 75 MD. L. REV. 1 (2015).

Arbitration clauses are now very common in consumer contracts. However, many consumers may not understand the clause they are agreeing to. This article presents a study of how consumers understand arbitration clauses.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
{79} SUBJ MATTER: CONSUMER
{127} REQUIREMENTS: MANDATE TO USE

Andrew Brady Spalding, *Deconstructing Duty Free: Investor-State Arbitration as Private Anti-Bribery Enforcement*, 49 U.C. DAVIS L. REV. 443. (2015).

The article analyzes the effects that *World Duty Free v. Kenya* had on the problem of enforcing anti-bribery policies. The author takes the position that investment-state arbitration could fix the problems of bribery by becoming a venue for the private enforcement of anti-bribery norms.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
{92} SUBJ MATTER: INT'L
{88} SUBJ MATTER: GOV'T CONTRACTS

Evan Spelfogel, *Permissible Coordinated Action By Employers In Labor Negotiations*, 30 ABA JOURNAL LAB. & EMP. LAW 273 (2015).

This article analyzes when competing companies cooperate in collective bargaining negotiations. The article addresses the actions, consistent with the requirements of the National Labor Relations Act and federal antitrust laws that companies may take when engaged in coordinated bargaining with a union and ways those companies may protect their interests if the union launches a strike against one or more participating companies.

{1} NEGOTIATION—GENERAL
{93} SUBJ MATTER: LABOR—GENERAL

E. Gary Spitko, *Federal Arbitration Act Preemption of State Public-Policy-Based Employment Arbitration Doctrine: An Autopsy and an Argument for Federal Agency Oversight*, 20 HARV. NEGOT. L. REV. 1 (2015).

The article describes California's employment arbitration doctrine and shows how the Supreme Court preempts each of the doctrines in its interpretation of the Federal Arbitration Act. The article argues for a federal overseer with expertise to hold veto power over proposed regulation to maintain appropriate balance between public policies and the desire to promote the FAA's policies in favor of enforcing arbitration agreements.

{44} ARBITRATION—GENERAL

{104} SUBJ MATTER: REGULATORY

Brett J. Stavin, *The Rise of Customized Litigation and its Effect on Employment Arbitration*, 32 QUINNIPIAC L. REV. 791 (2015).

This article discusses the judiciary's approach to arbitration, by explaining the reasoning that courts have traditionally applied when deciding whether to enforce an agreement to arbitrate. It then discusses ex ante contracts to modify litigation procedure. Finally, it argues that, by customizing litigation, parties to an employment agreement can resolve their disputes in a forum crafted specifically to their needs.

{44} ARBITRATION—GENERAL

{96} SUBJ MATTER: EMPLOYMENT (NON-UNION)

Henry L. Jr. Stephens, *Mediation Practice in Kentucky: Adoption of the Uniform Mediation Act Would Help*, 42 N. KY. L. REV. 1 (2015).

This article looks at Kentucky's local and model mediation, in an effort to encourage the state of Kentucky to fill the void areas in the law by adopting the Uniform Mediation Act. The article also identifies specific areas in Kentucky's local and model rules that need to adopt the Uniform Mediation Act's language. These areas include confidentiality and a mediation privilege, conflicts between the local and Model rules, and procedural rules for mediations in the state.

{21} MEDIATION—GENERAL

{144} LEGISLATION

Jean R. Sternlight, *Disarming Employees: How American Employers Are Using Mandatory Arbitration to Deprive Workers of Legal Protection*, 80 BROOK. L. REV. 1309 (2015).

This article examines the current state of workers' rights, in light of the recent inclusion of mandatory arbitration contracts in employment contracts. It also examines workers' rights within the scope of the litigation that is often used both to protect those rights and to ensure statutes are properly enforced.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL
 {96} SUBJ MATTER: EMPLOYMENT (NON-UNION)
 {126} REQUIREMENTS: CONTRACTUAL CLAUSES

Joseph B. Stulberg, *Mediator Misunderstanding of Bargaining Basics: Heading in an Ugly Direction*, 16 CARDOZO J. CONFLICT. RESOL. 807 (2015).

This article offers the argument that mediators should, in the course of mediating, reject the principled bargaining approach because it reduces party self-determination and reinforces social inequities. The author proposes that this approach to mediation can have positive effects, therefore its unquestioned use is moving mediation in a direction that should be rejected.

{21} MEDIATION—GENERAL
 {73} SUBJ MATTER: GENERAL
 {151} ROLE OF LAWYERS

Elinor A. Swanson, *A Textualist Approach to Title VII: Aggrieved Individuals May Bypass The EEOC*, 32 HOFSTRA LAB. & EMP. L.J. 345 (2015).

This article argues that a textualist interpretation of Title VII of the Civil Rights Act of 1964 permits aggrieved individuals to bypass the Equal Employment Opportunity Commission (EEOC). This article recommends that courts permit aggrieved individuals to seek judicial recourse without first filing an EEOC charge.

{60} ADR—GENERAL
 {94} SUBJ MATTER: LABOR—DISCRIMINATION

Symposium, *The Eighth John A. Speziale Alternative Dispute Resolution Symposium*, 32 QUINNIPIAC L. REV. 839 (2015).

Diane E. Kenty, Director of the Office of Court Alternative Dispute Resolution in the Maine Administrative Office of the Courts analyzes the challenges ADR

has faced from the economic downturn. Following that analysis, the author then discusses how ADR can meet the challenge of the economic recession.

{60} ADR—GENERAL

{73} SUBJ MATTER: GENERAL

Imre Stephen Szalai, *A Constitutional Right To Discovery? Creating and Reinforcing Due Process Norms Through the Procedural Laboratory of Arbitration*, 15 PEPP. DISP. RESOL. L.J. 337 (2015).

This article analyzes the ways that arbitration can help define and reinforce due process norms applicable in court, and a due process-like norm regarding discovery is beginning to develop. The article argues that courts review arbitration procedures for fundamental fairness, and concludes that judicial review of arbitration procedures helps define and reinforce due process norms applicable in courts, particularly with respect to an emerging due process right to discovery.

{44} ARBITRATION—GENERAL

{76} SUBJ MATTER: CIVIL RIGHTS

{102} SUBJ MATTER: PUBLIC POLICY

Spring E. Taylor, *Arbitration Whack-A-Mole: The Federal Policy Favoring Arbitration Hammers the Rights of Individual Employees*, *Huffman v. Hilltop Companies, LLC*, 747 F.3d 391 (6th Cir. 2014), 2015 J. DISP. RESOL. 239 (2015).

This article explores the context of a union bargained contract and the relationship between the employer and employee. It discusses the extent of how “bargained-for” a contract is when an arbitration clause is included. It also explores the interplay of the employee’s knowledge of the arbitration clause being included in the contract.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL

{95} SUBJ MATTER: LABOR—MANAGEMENT (UNION)

{126} REQUIREMENTS: CONTRACTUAL CLAUSES

Thomas S. Terranova, *Patient Recourse In International Healthcare: Arbitration And Insurance For Self-Referred Patients*, 27 LOY. CONSUMER L. REV. 423 (2015).

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This article focuses on how international arbitration could be an effective framework to offer recourse to patients in the international arena. Concerned with no established recourse in the international market for medical malpractice and that the U.S. might not always have the resources needed, the patients who seek care abroad need a plausible, reliable recourse against doctors.

{44} ARBITRATION—GENERAL

{92} SUBJ MATTER: INT'L

{98} SUBJ MATTER: MED-MAL

Jeffrey E. Thomas, *The Standard for Breach of a Liability Insurer's Duty to Make Reasonable Settlement Decisions: Exploring the Alternatives*, 68 RUTGERS L. REV. 229 (2015).

There is a proposed restatement on the law of liability insurance. This author focuses on the standard for determining whether an insurer has breached its duty to settle. There are two predominant standards which the author compares, and gives recommendations for the restatement.

{53} COLLABORATIVE LAW—GENERAL

{91} SUBJ MATTER: INSURANCE

{121} SETTLEMENT: AUTHORITY

Jay Tidmarsh, *The Litigation Budget*, 68 VAND. L. REV. 855 (2015).

This article discusses the reasons why people might forgo methods of alternate dispute resolution in favor of litigation, despite its higher cost. The author proposes that parties stick to "cost budgets" to minimize the expense of litigation, should parties choose to go that route instead of alternative dispute resolution methods.

{60} ADR—GENERAL

{73} SUBJ MATTER: GENERAL

{133} COURT REFORMS

Michael Tipton, *Can You Trust Your Trust?: Analyzing the Decision and Implications of *Rachal v. Reitz* on Arbitration Provisions in Trust Agreements*, 48 AKRON L. REV. 979 (2015).

This article details arbitration as a means for protecting trust assets from depletion by lengthy litigation. The Supreme Court decision in *Rachal v. Reitz*

is used to explain the implications on giving effect to the intent of the settlor, the Texas Arbitration Act, and laying a foundation for future arbitration agreements that are enforced against trustees and beneficiaries.

{44} ARBITRATION—GENERAL

{110} SUBJ MATTER: TORTS—OTHER

Craig Tompkins, *Jackson v. Shakespeare Foundation, Inc.: Can Florida Courts Circumvent Precedent Set by the Supreme Courts of the United States and Florida Regarding the Enforcement of Arbitration Provisions?*, 69 U. MIAMI L. REV. 1027 (2015).

The author analyzes the decision in *Jackson* in context to explain why the Court had to rule as it did. The author discusses legal methods to avoid the conclusion that arbitration requirements in agreements that were obtained by fraud must be enforced.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL

{102} SUBJ MATTER: PUBLIC POLICY

{127} REQUIREMENTS: MANDATE TO USE

Lara Traum, *Involved, Empowered and Inspired: How Mediating Halakhic Prenuptial Agreements Honors Jewish and American Law and Builds Happy Families*, 17 CARDOZO J. CONFLICT RESOL. 179 (2015).

This article discusses the history of Jewish marital and divorce law and the significance of halakhic legal documents and religious arbitration units in these processes, as well as connecting this historic system to the American practice of prenuptial agreements. The article highlights the failings of current prenuptial practices in the Orthodox Jewish Community. The author concludes that prenuptial mediation is the best way to honor both halakha and American legal interests.

{53} COLLABORATIVE LAW—GENERAL

{85} SUBJ MATTER: FAMILY (DOMESTIC REL.)

{124} COMPARISONS: CROSS-CULTURAL

Inna Uchkunova & Oleg Temnikov, *The Availability of Moral Damages to Investors and to Host States in ICSID Arbitration*, 6 J INT. DISP. SETTLEMENT 380 (2015).

This article evaluates the question of awarding moral damages in ICSID Arbitration and addresses the question of whether moral damages are allowed under Article 46 of the ICSID Convention. The article then considers whether a respondent State may present a claim for pecuniary satisfaction for moral damages suffered as a result of the presentation of a fraudulent claim.

{44} ARBITRATION—GENERAL
 {81} SUBJ MATTER: CORPORATE
 {92} SUBJ MATTER: INT'L

Valentina S. Vadi, *Global Cultural Governance by Investment Arbitral Tribunals: The Making of a Lex Administrativa Culturalis*, 33 B.U. INT'L L.J. 457 (2015).

This article investigates the interplay between the promotion of foreign direct investment and the protection of cultural heritage in international law. This article addresses the question of whether a *lex administrativa culturalis*, or cultural administrative law, has emerged. This article questions whether international investment law and arbitration can be a tool for enforcing international cultural law and whether arbitral tribunals can promote good and effective cultural governance.

{44} ARBITRATION—GENERAL
 {92} SUBJ MATTER: INT'L

Valentina S. Vadi, *Towards a New Dialectics: Pharmaceutical Patents, Public Health and Foreign Direct Investments*, 5 N.Y.U. J. OF INTELL. PROP. & ENT. LAW 113 (2015).

This article highlights the emergence of a new dialectics between the protection of intellectual property and public health in international investment law and arbitration. While investor-state arbitration constitutes a major development in international law and facilitates the access of foreign investors to justice, it may endanger the fundamental values of the international community as a whole, unless arbitrators duly take into account their role as "cartographers" of international law within their role as "adjudicators."

{44} ARBITRATION—GENERAL
 {105} SUBJ MATTER: SCIENCE & TECHNOLOGY

Jennifer Vincent, *Oh, What A Tangled Web We Weave: The Implications of Conflicting Domestic Policy on Arbitrability and Award Enforcement*, 38 HASTINGS INT'L & COMP. L. REV. 141 (2015).

This article focuses on international countries differing arbitration policies. In particular, the article discusses complications of having different domestic rules for enforcing international arbitration. This article provides a solution to this complication in partial deferential review.

{44} ARBITRATION—GENERAL

{92} SUBJ MATTER: INT'L

{122} SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Pilar Perales Viscasillas, *The Good, the Bad, and the Ugly in Distribution Contracts: Limitation of Party Autonomy in Arbitration?*, 4 PENN. ST. J.L. & INT'L AFF. 213 (2015).

The object of this paper is to explore the limitations imposed by certain countries on the freedom of the parties to submit their contracts to arbitration and whether this approach should be rejected considering that other countries follow policies in favor of arbitration. The paper concludes that there is no need to limit party autonomy in arbitration.

{45} ARB: MANDATORY, COURT-ANNEXED—GENERAL

{92} SUBJ MATTER: INT'L

{151} ROLE OF LAWYERS

Robert Ward, *Divide & Conquer: How the Supreme Court Used the Federal Arbitration Act to Threaten Statutory Rights and the Need to Codify the Effective Vindication Rule*, 39 SETON HALL LEGIS. J. 149 (2015).

This article argues the effective vindication rule must be revisited, clarified, and codified in the FAA to specify that the rule applies exclusively to the interaction between the FAA and federal statutory rights, and that the totality of the parties' contract requires consideration when evaluating whether an arbitration agreement leaves claimants with no possible avenue to vindicate their rights.

{44} ARBITRATION—GENERAL

{73} SUBJ MATTER: GENERAL

{133} COURT REFORMS

W. Mark C. Weidemaier, *Customized Procedure in Theory and Reality*, 72 WASH. & LEE L. REV. 1865 (2015).

This article examines contract theory and indicates that it allows the parties to customize the means of settling a dispute. It claims that customized dispute resolution is now widespread in contracting. This article examines the methods and limits involved in contracts.

{60} ADR—GENERAL

{73} SUBJ MATTER: GENERAL

Daniel J. Weiss, *The Bomb Keeps the Light On: The Use of Final-Offer Arbitration in Failed Retransmission Consent Negotiations*, 16 CARDOZO J. CONFLICT. RESOL. 685 (2015).

This note examines instances in which retransmission consent negotiations between television broadcasters and cable companies have failed and suggests that binding arbitration may be a solution to this problem. The author analyzes the FCC's authority to assert binding arbitration and how final-offer arbitration is the best style of arbitration to suit these particular disputes.

{44} ARBITRATION—GENERAL

{107} SUBJ MATTER: SPORTS & ENTERTAINMENT

{122} SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD

Gu Weixia, *Responsive Justice in China During Transitional Times: Revisiting the Juggling Path Between Adjudicatory and Mediatorial Justice*, 14 WASH. U. GLOBAL STUD. L. REV. 49 (2015).

This article studies the international "transitional justice" framework that examines justice systems in economic, societal, and political transition in post-Communism Central and Eastern European (CEE) jurisdictions. It examines the checkered development of judicial reforms in China between adjudicatory and mediatorial justice over the past one and a half decades. It concludes that judicial mediation should be adopted legally and properly rather than for purely political motives.

{21} MEDIATION—GENERAL

{92} SUBJ MATTER: INT'L

{124} COMPARISONS: CROSS-CULTURAL

{133} COURT REFORMS

Cindy Whang, *The Challenges of Enforcing International Military-Use Technology Export Control Regimes: An Analysis of The United Nations Arms Trade Treaty*, 33 WIS. INT'L L.J. 114 (2015).

This article discusses the Arms Trade Treaty (ATT) adopted by the United Nations in 2013. This treaty creates an international standard for regulating the international trade in conventional arms. The article states that ATT's dispute resolution system includes negotiations, mediation, conciliation, judicial settlement, and arbitration. The article further discusses the ATT's method of dispute resolution.

{60} ADR—GENERAL

{92} SUBJ MATTER: INT'L

John C. Williams, *Arbitration Agreements in Arkansas After Concepcion*, 37 U. ARK. LITTLE ROCK L. REV. 235 (2015).

This article discusses the waiver of arbitration clauses. It also examines federal cases governing the enforceability of consumer arbitration clauses focusing on the landmark case of *AT&T Mobility LLC v. Concepcion*—which holds that the Federal Arbitration Act (FAA) preempts state laws that disfavor arbitration—and examines how federal courts and state courts outside Arkansas have reacted to the ruling.

{44} ARBITRATION—GENERAL

{79} SUBJ MATTER: CONSUMER

126} REQUIREMENTS: CONTRACTUAL CLAUSES

Mel David Zahnd, *Who's Afraid Of The Light? Product Liability Cases, Confidential Settlements, and Defense Attorneys' Ethical Obligations*, 28 GEO. J. LEGAL ETHICS 1005 (2015).

This article analyzes the effects of past confidential settlements of product liability cases and how they are sued to purposely hide risks from the public. The article centers on a series of GM faulty ignition switches settlements that hid the potential damage from the public. The article concludes by considering the ethical solution to these secret settlements.

{53} COLLABORATIVE LAW—GENERAL

{102} SUBJ MATTER: PUBLIC POLICY